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FCA Publishes Final UK Listing Rules

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The UK Financial Conduct Authority (FCA) published a policy statement (PS24/6) on 11 July 2024 setting out the final policy position and UK listing rules (final rules) for a new, simplified and more competitive UK listing regime. The final rules are broadly as consulted on in December 2023 (see our December 2023 alert on consultation paper CP23/31). The final rules and the accompanying transitional provisions will take effect from 29 July 2024.

Summary of the final rules

At the core of the final rules is the removal of the current 'premium' and 'standard' listing segments in favour of a new 'commercial companies' category for equity shares listings. For this category, the FCA has maintained the approach of not requiring votes on significant and related party transactions and being more permissive in relation to companies listing with dual-class structures or weighted voting rights. At the same time, important investor protections have been retained – for example, shareholder votes for reverse takeovers, share buybacks, nonpreemptive discounted share issuance and cancellation of listings, and applying the UK Corporate Governance Code to the commercial companies category. The final rules for the commercial companies category are largely consistent with the December consultation, with the following main additions or changes:

1. Controlling shareholders

While retaining a requirement for an issuer to have independence from a controlling shareholder, a controlling shareholder agreement between the issuer and its controlling shareholder (or relationship agreement) will no longer be required. There is a new mechanism for directors to give an opinion on a shareholder resolution put forward by a controlling shareholder when a director considers that the resolution is intended to or appears to be intended to circumvent the proper application of the listing rules.

2. Dual-/multiple-class share structures

Enhanced voting rights will be available not only to specified natural persons (i.e., individuals) but also to pre-initial public offering (IPO) investors (e.g., institutional investors) who are legal persons. However, the enhanced voting rights held by these institutional investors will only be exercisable for a maximum of 10 years to avoid institutional holdings becoming perpetual. An exception to this 10-year period is provided for enhanced voting rights held by a sovereign controlling shareholder.

3. Significant transactions

The final rules allow for greater flexibility on timing and content of disclosures required for significant transactions. Following consultation, the FCA will no longer be requiring two years of historical financial information (or the alternative approach of making a statement as to the consideration paid being 'fair') in a market notification for an acquisition that constitutes a significant transaction (i.e., greater than 25% in size based on the retained class tests). Two years of historical financial information (or the alternative 'fairness' statement) will still be required for a disposal that constitutes a significant transaction.

The final rules require prescribed content for the notification, but the timing of notification has been relaxed – certain items can be disclosed as soon as possible after the information has been prepared or the company becomes aware of them post-announcement by no later than completion of the transaction. A final notification also is required upon completion of a transaction.

Other listing categories remain unchanged with the following additions or changes from the December consultation:

Closed-ended investment funds category

Rules on significant or related-party transactions (other than material changes to investment policies and management fee changes) will align with those rules for commercial companies.

Shell companies category

Shell companies – including special purpose acquisition companies (SPACs) – remain subject to an enhanced eligibility requirement to complete a transaction within 24 months, but with additional flexibility to extend by 12 months up to three times, subject to shareholder approval, and to further extend for a period of six months in specified circumstances which are intended to address the scenario where a deal has been announced or is very near to being completed. The current SPAC provisions introduced in 2021 are retained to allow larger SPACs with certain specified investor protections in place to avoid the presumption that their listing would be suspended when a potential acquisition target is announced, or if details of the proposed acquisition have leaked.

Next steps

The final rules will come into force on 29 July 2024 (implementation date), when the current Listing Rules sourcebook will cease to have effect and will be replaced by the new United Kingdom Listing Rules sourcebook.

Existing listed issuers will be mapped into the relevant new listing categories. Upon market opening on the implementation date, the Official List will be revised to display, in each individual entry, the new listing category applicable to the security listed. All commercial companies with a premium or standard listing have been notified of how their entry on the Official List will be shown. Existing standard listed issuers whose listings will be assigned to the transition category can apply from the implementation date to be transferred to the new commercial companies category. The transition category will have no end date at the point of implementation, and there is no deadline for issuers to transfer out of the category, but instead the FCA will keep it under review.

The FCA has stated that it will carry out a formal post-implementation review of the new listing regime in five years' time to assess the impacts on all parts of the market.

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