

# FCA Publishes Near-Final Proposals for Major Reforms to the UK Listing Regime

2 January 2024

On 20 December 2023, the Financial Conduct Authority (the “FCA”) published a further [consultation paper](#) (the “[Consultation Paper](#)”) setting out near-final proposed reforms to the UK equity listing regime and inviting feedback by 22 March 2024 (except for comments on sponsor competence, which are due on 16 February 2024). These proposals follow an earlier [consultation paper](#) published by the FCA in May 2023 (“[CP23/10](#)”) (covered by us [here](#)), which sought views on an earlier set of proposals by the FCA. The proposals seek to simplify the UK listing regime, including initial listing eligibility and ongoing compliance rules, and encourage listings in the UK.

Key proposals contained in the Consultation Paper are summarised below, some of which remain largely unchanged from CP23/10.

## KEY PROPOSALS

**Single Listing Category.** As in CP23/10, the Consultation Paper proposes that the standard and premium listing segments for equity shares be replaced by a single listing category, which would be subject to a single set of Listing Rules and related provisions. A separate transitional segment (closed to new entrants) is being proposed for issuers currently listed on the standard segment to give them time to adjust to the requirements of the single segment. Under the proposals, non-UK incorporated companies that cannot satisfy the requirements of the single segment would be able to list on a separate segment replicating the current standard segment. Separate listing categories would remain for open-ended investment companies, closed-ended investment funds, securitised derivatives, depository receipts, debt and other debt-like securities. It is expected that the FCA will publish a consultation paper in the first quarter of 2024 containing draft rules for other listing categories, including the transitional segment, and for international secondary listings.

**Listing Eligibility.** The proposals for listing eligibility remain unchanged in the Consultation Paper. The existing key eligibility requirements, such as a minimum 10% free float and a minimum market capitalisation of £30 million, would apply to listings

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on the new single segment. The three-year audited historical financial information covering 75% of the issuer's business, three-year representative revenue earning track record and "clean" (or unqualified) working capital statement would no longer be required for listings on the proposed single segment.

**Sponsor Regime.** The Consultation Paper envisages the role for sponsors at the time of an issuer's first listing to be similar to the current regime. Post-IPO, however, the role for sponsors would be much more streamlined, focusing primarily on significant increases of the issuer's listed capital requiring an FCA-approved prospectus, reverse takeovers, certain transfers between listing categories and delivering fair and reasonable opinions for related party transactions.

**Continuing Obligations.** A single set of continuing obligations would apply across the single segment, as proposed in CP23/10. Previously, the FCA had considered a two-tiered continuing obligations framework for the single segment. Companies listed on the single segment would have to adhere to the UK Corporate Governance Code on a "comply or explain" basis.

**Controlling Shareholders and Relationship Agreements.** The Consultation Paper proposes that the current eligibility requirements and continuing obligations for controlling shareholders remain largely unchanged. This includes the requirement for a binding relationship agreement to be put in place setting out the controlling shareholder's obligations. CP23/10 had proposed replacing this requirement with a "comply or explain" approach.

**Significant Transactions.** The Consultation Paper proposes that compulsory shareholder votes be removed for class 1 transactions (except for reverse takeovers). Additionally, the profits test would be removed entirely from the significant transactions regime. Instead, for transactions where any of the class tests is equal to or exceeds 25%, an enhanced market notification regime would be introduced based on current class 2 notification requirements. Notifications would be required to include key financial information based on the current requirements for class 1 circulars, including at least two years' historical financial information (where available). The requirement for working capital statements or restated historical financial information would, however, be removed. These reforms would limit the role of advisers in connection with preparing a notification, as third-party scrutiny of financial information being published for notifications would no longer be mandatory. As a result, issuers would have discretion as to seeking advisers. The Consultation Paper also provides new guidance for assessing if a transaction is within or outside an issuer's ordinary course of business. Under the proposed guidance, a transaction may be deemed as part of the issuer's ordinary course of business if it is undertaken to support the issuer's existing business, even if such transaction is not regularly undertaken.

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**Related Party Transactions.** Compulsory shareholder votes or FCA-approved shareholder circulars would no longer be required for related party transactions. Instead, a transaction announcement together with a fair and reasonable sponsor opinion would be required. The new rules would require board approval for a related party transaction, with the vote excluding any conflicted director from taking part. Additionally, it is being proposed that the current 10% threshold at which a substantial shareholder becomes a related party would be increased to 20%. Similarly to the proposed reforms to the significant transactions regime, the FCA is looking to give issuers more flexibility as to when expert advice must be sought.

**Independent Business and Control of Business.** The Consultation Paper recommends a more flexible approach by not mandating any eligibility requirements or continuing obligations in respect of independence of business (subject to limited exceptions for externally managed companies and controlling shareholders). Currently, a premium listed company is required to demonstrate that it carries on an independent business and exercises operational control over the business.

**Dual Class Share Structures.** Issuers have been able to list on the premium segment with dual class share structures since 2021, subject to certain restrictions. Under the Consultation Paper, limits on the maximum enhanced voting rights would be removed and the group of people to whom shares carrying enhanced voting rights can be issued would be widened under the proposed reforms to persons who, at the time of the issuer's admission to listing, are (i) directors of the issuer, (ii) investors or shareholders of the issuer, (iii) employees of the issuer or (iv) entities established for the sole benefit of, or solely owned and controlled by, any of the persons listed in (i) to (iii). This is a wider group than the group set out in CP23/10. No shares carrying enhanced voting rights could be issued after the listing. The 10-year sunset period on enhanced voting rights recommended by CP23/10 has been removed and any shares carrying enhanced voting rights may only be transferred to an entity established for the sole benefit of, or solely owned and controlled by, the transferor. Moreover, the Consultation Paper departs from CP23/10 by proposing that enhanced voting rights would not be exercisable on matters subject to a vote under the new Listing Rules if there is a controlling shareholder, other than for approving the election or re-election of independent directors and reverse takeovers.

## COMMENT

The FCA is seeking feedback on the proposed reforms contained in the Consultation Paper relating to sponsor competence and the Listing Rules by 16 February 2024 and 22 March 2024, respectively. The FCA intends to publish the final Listing Rules in the

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second half of 2024, with the new Listing Rules coming into force shortly thereafter. Lord Hill's UK Listings Review, launched in November 2020, sought to identify strategies to strengthen the UK's position as a leading global financial centre and the Consultation Paper commences the final part of the process of reforming the UK listing regime.

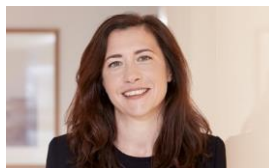
The latest recommendations maintain the theme of increasing flexibility by replacing the current rules-based regime with a disclosure-based approach. As we have commented previously, much of the success of the new regime will depend on FTSE index inclusion of issuers listed on the single segment and FTSE Russell has yet to comment on the inclusion criteria under the proposed new regime.

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Please do not hesitate to contact us with any questions.



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