

FCA proposes Listings Regime transformation

AT A GLANCE

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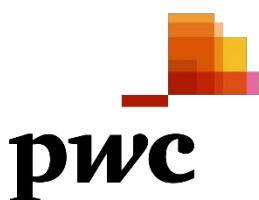
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What's new?

- The FCA issued a [Consultation Paper \(CP\)](#) proposing significant reform of Listing Rules for equity shares in commercial companies (ESCC) on 3 May 2023.
- The proposals would introduce a single listing category for equity shares in commercial companies and replace the current standard and premium listing distinction. This would be accompanied by a suite of changes to related rules including eligibility and ongoing requirements, related party transactions, and dual class share structures. The CP notes that the proposed changes will pass greater investment risk to investors.
- The proposals also seek to retain, but modify, the current sponsor regime, as well as maintain discrete categories of listings for other types of instruments.

What does this mean?

- The CP follows a [Discussion Paper \(DP\)](#) published in May 2022 that set out proposals to reform the UK's Listing Rules for equity shares in commercial companies following recommendations from Lord Hill's Listings Review. In particular, reform of the UK regime is focused on addressing concerns that the current premium listing segment is too burdensome and the standard listing segment is poorly understood and not attractive for companies.
- The CP reflects feedback from the DP and outlines a suite of proposed changes that seek to make the Listings Regime more accessible, more effective, easier to understand and more competitive.
- The FCA's core proposal would introduce a new single listing category for equity shares in commercial companies. To enable this, the FCA outlines a comprehensive set of changes to the existing premium and standard listing rules and requirements.
- On listing eligibility criteria, the FCA proposes to remove requirements that currently apply to premium listings for a three-year financial and revenue earning track record, and an unqualified working capital statement. Instead reliance is to be placed on prospectus disclosures, albeit the prospectus rules themselves are to be reviewed in the not too distant future.
- The FCA also aims to reduce the perceived regulatory burden on listing companies by removing the requirement for compulsory shareholder votes and shareholder circulars for significant transactions and related party transactions (RPTs).
- The proposals would also increase the threshold that dictates when significant transactions need to be announced, and provide flexibility on when, and in what form, sponsor guidance is required to assess the application of rules applying to a significant transaction.
- The FCA also proposes to amend independence and control of business rules to provide clarity to the UK listings approach, with a view to enabling listings from more diverse business models and complex corporate structures.
- It also proposes to amend rules requiring the conclusion of shareholder agreements with a controlling shareholder. Reforms would shift requirements to a 'comply or explain' and disclosure-based approach, placing the onus on shareholders to satisfy themselves that the relationship between a company and controlling shareholder is within their risk appetite.

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- Regarding RPTs, the FCA proposes to retain other controls in the existing regime. This includes requirements for RPTs over the 5% threshold to be announced to the market no later than when the transaction is agreed, and that this includes a 'fair and reasonable' statement from the board. The FCA also proposes to retain the requirement for sponsor guidance to assess the application of relevant RPT rules.
- The CP proposes to introduce a more flexible approach to dual class share structures. This includes extending the application of enhanced voting rights so they can be exercised on all matters and for a period of ten years. The FCA also proposes to remove maximum enhanced voting ratio or weighting limits that can be attached to shares.
- To underpin the reformed listing regime, the FCA outlines a commitment to establish a single set of Listing Principles that would aim to clarify the role of boards in ensuring a listed company meets its regulatory obligations. More details on the new principles are expected in a further consultation in autumn 2023.
- For instruments wider than equity shares in commercial companies, the FCA notes it plans to set out further detailed reform plans in autumn 2023. Ahead of this, the FCA indicates that it intends to establish a new category for equity shares for SPACs and shell companies to reflect their limited corporate structure, and that it expects to include Sovereign Controlled Commercial Companies in scope of the new ESCC category.
- The FCA also notes that a transition period will likely be needed for existing premium and standard listed companies to transfer to the new ESCC category.

What do firms need to do?

- The proposals represent the FCA's attempt to strike a balance in reducing barriers and costs for companies to list, while retaining, what is in the FCA's view, an appropriate level of investor protection. Changes from the initial May 2022 Discussion Paper indicate the FCA's desire to design a regime that is focused on providing greater flexibility for listed companies in order to boost the competitiveness of the UK as a destination to list.
- For investors, the proposals significantly alter the level of protections afforded, particularly for investors in premium listed companies, for example by removing the need for shareholder approval for certain transactions. Investors will need to ensure their due diligence, risk assessment, and engagement strategies reflect the potentially wider types of listed companies permitted and the reduced influence and protection the proposals would bring.
- While the proposals would likely reduce the regulatory burden for premium listed companies, standard listed companies should understand the impact of proposals that would introduce regulatory requirements that had previously not applied. For example, the significant transaction regime, RPT rules, and certain sponsor requirements would be new for standard listed companies.
- For sponsors, while the FCA indicates that it expects their continued role to mirror existing expectations at IPO stage under the premium listing segment, they should be alert to the proposed changes in eligibility requirements and their likely reduced ongoing involvement post-listing, for example in circulars for significant transactions and RPTs.

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Next steps

The consultation closes on 28 June 2023. The FCA proposes to issue a further consultation in autumn 2023, setting out wider proposed changes to the Listings Regime and draft rules. The FCA plans to make 'substantial progress' by the end of 2023 in taking forward the proposals.



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