



November 2017

## Listing Rule change alert for 2018 IPOs

On 26 October the FCA announced a package of rule changes which will affect IPOs scheduled for 2018.

From January 2018, a new version of the premium listing eligibility requirements will come into force. Notably, a new concessionary route for property companies will be introduced. Chapter 6 has been redrafted for clarity and several new Technical Notes will be introduced. In addition, there will be changes in relation to the class tests and reverse takeovers.

From July 2018 new rules will come into force on research in the context of IPOs. These new rules will require an approved prospectus or registration document to be published, and for unconnected analysts to have access to management, before connected research is published.

### Changes from January 2018: amendments to the Listing Rules

On 26 October the FCA published [Policy Statement 17/22](#) in response to its consultation on Enhancements to the Listing regime.

#### ELIGIBILITY AND CONCESSIONARY ROUTES

- **New concessionary route for property companies**

A new concessionary route to premium listing will be introduced for property companies. In order to benefit from this route, the property company must either:

- demonstrate that it has three years of development of its real estate assets represented by increases of the gross asset value of its real estate assets, evidenced by financial statements and supported by a property valuation report; or
- demonstrate that 75% of the gross asset value of its real estate assets, as supported by a published property valuation report, are revenue generating at the point in time when the application for admission to a premium listing is made.

Aaron Stocks, the head of Travers Smith's Listed Funds Team, says:

*"We welcome the new concession for listing property companies without a track record which recognises that a trading property company should not be treated differently to a property fund. It*

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*will eliminate the current practice of a property fund IPO being followed by a conversion to Chapter 6 at a later date."*

- **Listing Rule 6:** Listing Rule 6 has been re-drafted for ease of understanding following various recent amendments. New Technical Notes have been published on the track record and independence requirements, and also in respect of the existing concessionary routes.
- **Removal of references to waiving the track record and working capital statement requirements in LR6:** References to waiving the track record and working capital statement requirements have been removed as such waivers are not given in practice and therefore the FCA considered their inclusion misleading.

## CLASS TESTS

The amended rules allow an issuer on a transaction, other than a related party transaction, where there is an anomalous profits test result of 25% or more to:

- disregard, upon a sponsor's advice, an anomalous profits test results if all the other tests give a result less than 5%; and
- make adjustments, upon a sponsor's advice, to the figures used in the profits test relating to genuine one-off costs and to financing charges incurring during private ownership,

without seeking a derogation from the FCA.

## SUSPENSION OF LISTING ON REVERSE TAKEOVERS:

The presumption in favour of suspension of a company's listing upon announcement of a reverse takeover will be reversed, except in relation to a shell company. This is on the basis that the FCA believes that proper price formation can take place, and the market can operate smoothly, based on the information disclosed as part of an issuer's existing obligations, principally under MAR.

The FCA will retain its right to suspend trading where it appears that the issuer cannot accurately assess its financial position and inform the market accordingly, or there is insufficient information in the market about a proposed transaction. An issuer will still be able to request a suspension on this basis.

## Changes in force from July 2018: IPO research

On 26 October, the FCA also published [Policy Statement 17/23](#) on "Reforming the availability of the information in the equity IPO process". New rules will be introduced from July next year (at COBS 11A), and are intended to address two issues, namely:

- the fact that the prospectus, which should be the primary source of information on the issuer, is not available to investors until late in the IPO process; and
- the predominance of connected research, and resulting concerns over potential bias.

The new rules will seek to ensure that before any connected research is released, an approved prospectus or registration document is published, and unconnected analysts have access to the issuer's management. We assume that a practice will develop of producing a registration document prior to an intention to float announcement and the publication of research, with a summary and securities notes completing the prospectus later in the process. There is some conjecture as to whether this final piece will be put in place prior to management roadshows or only after pricing.

An investment bank acting on an IPO must either allow a range of unconnected analysts to join its own analysts in any briefings with management, or may provide unconnected analysts with separate access to management.

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Where unconnected analysts are allowed access alongside the connected analysts, then connected research may be published one day after publication of an approved prospectus or registration document.

Where unconnected analysts are not allowed access alongside the bank's analysts, they may be given separate access, subject to various requirements set out in COBS 11A. In this case connected research may not be published until at least seven days after publication of the approved prospectus or registration document.

The new rules contain record-keeping requirements, including keeping records of the assessment of the range of analysts who are given access and, where access is granted separately from the banks' analysts, detailed records of all information provided to connected and unconnected analysts. Banks will need to take care that identical information is provided to all analysts.

Time will tell how market practice will develop, although early signs are that staggered connected and unconnected analyst briefings (with consequent 7 day delay) may be more prevalent. Note that these new rules will not apply to issuers on multilateral trading facilities (e.g. AIM), given concerns about execution risk in lengthening the timetable, and uncertainty about the amount of unconnected research that would be likely to emerge. However, the FCA is encouraging firms advising on larger AIM IPOs to consider following the new rules.

COBS 12, which gives guidance on conflicts of interest in investment research, gives examples of activities which may be seen to compromise an analyst's objectivity. This guidance has been extended to clarify the position with regard to analysts' participation in pitches for new business.

## FOR FURTHER INFORMATION, PLEASE CONTACT

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