The City of London Law Society

The Law Society

CITY OF LONDON LAW SOCIETY AND LAW SOCIETY RESPONSE: FCA CONSULTATION PAPER 23/31 - PRIMARY MARKETS EFFECTIVENESS REVIEW: FEEDBACK TO CP 23/10 AND DETAILED PROPOSALS FOR LISTING RULES REFORMS – TRANCHE 2 RULES

2 APRIL 2024

Introduction

1. The views set out in this response have been prepared by a Joint Working Party of the Company Law Committees of the City of London Law Society (the **CLLS**) and the Law Society of England and Wales (the **Law Society**).

2. The CLLS represents approximately 17,000 City lawyers through individual and corporate membership, including some of the largest international law firms in the world. These law firms advise a variety of clients from multinational companies and financial institutions to Government departments, often in relation to complex, multijurisdictional legal issues. The CLLS responds to a variety of consultations on issues of importance to its members through its 19 specialist committees.

3. The Law Society is the professional body for solicitors in England and Wales, representing over 170,000 registered legal practitioners. It represents the profession to Parliament, Government and regulatory bodies in both the domestic and European arena and has a public interest in the reform of the law.

4. The Joint Working Party is made up of senior and specialist corporate lawyers from both the CLLS and the Law Society who have a particular focus on issues relating to equity capital markets.

FOR FURTHER INFORMATION PLEASE CONTACT:

Nicholas Holmes
Ashurst LLP
nicholas.holmes@ashurst.com

1. UKLR 20.3 - Board declaration regarding the establishment of adequate procedures, systems and controls

UKLR 20.3.1R

Draft UKLR 20.3.1R provides that “An applicant must provide confirmation from the board that the applicant has established adequate procedures, systems and controls to enable it to comply with its obligations under the listing rules, disclosure requirements, transparency rules and corporate governance rules following admission.”

It is proposed that this confirmation will be given in the form of a board declaration (paragraph 14.13 of CP 23/31 (the CP)). As set out in our response to question 39 of the CP, there is some concern regarding the proposed wording of UKLR 20.3.1R, including its impact on directors' liability and the willingness of individuals to act as directors of issuers. Non-executive directors will also need to be appointed considerably earlier ahead of a listing in order for them to be comfortable providing the required confirmation.

In summary, the directors may be exposed to legal liability for giving an inaccurate board declaration under UKLR 20.3.1R even where:

- the directors did not know that the issuer’s procedures, systems and controls were inadequate, and in fact believed they were adequate;
- the issuer is not liable for breaching Listing Principle 1 (LP 1) in UKLR 2.2.1R because it took “reasonable steps” in this regard; and
- the sponsor is not liable for breaching UKLR 24.3.2R(4) because it came to a “reasonable opinion” in this regard.

Each of these points is explained below.

UKLR 20.3.1R goes beyond the issuer’s obligations under LP 1

LP 1 only requires an issuer “to take reasonable steps to establish… adequate procedures, systems and controls." UKLR 2.2.3G also only requires directors to take “reasonable steps” in relation to effective governance arrangements in the context of LP 1. However, the proposed board declaration under UKLR 20.3.1R is not limited in this way. It requires the directors to confirm that the applicant “has established adequate procedures, systems and controls." If the procedures, systems are controls are not adequate at admission, then the board declaration is not accurate. It would be no defence for the directors to argue that they had taken “reasonable steps” in this regard, even though the issuer could avoid liability for breaching LP 1 on these grounds. There seems to be some misalignment in respect of the treatment of directors and issuers.

UKLR 20.3.1R goes beyond the sponsor’s obligation under UKLR 24.3.2R(4)

UKLR 24.3.2R(4) which relates to the directors of the applicant having "established procedures which enable the applicant to comply with the listing rules and the disclosure requirements and transparency rules on an ongoing basis" only requires the sponsor to “come to a reasonable opinion, after having made due and careful enquiry”. In contrast, UKLR 20.3.1R requires the directors to give an unqualified declaration (i.e. not come to a “reasonable opinion”). Again, if the procedures, systems are controls are not adequate at admission, then the board declaration is not accurate. It would be no defence for the directors to argue that they had reached a “reasonable opinion” on this point, even though the sponsor could avoid liability under UKLR 24.3.2R(4) on these grounds.

UKLR 20.3.1R exposes directors to legal liability for matters outside their knowledge

The UK listing and prospectus regimes generally limit directors' liability to matters within their knowledge. This principle is well-established. Directors are not omniscient and will not know every piece of information possessed by every employee of the issuer's group companies. They are also unlikely to know of matters (for example, specific inadequacies in the issuer's procedures, systems and controls) of which none of those employees are aware. This is why section 91(2) of FSMA 2000 only empowers the FCA to fine a director for breach of the Listing Rules if the director is "knowingly concerned" in a contravention of those rules. This is also why directors' responsibility statements in reverse takeover circulars, class 1 circulars and equity prospectuses only confirm the accuracy of those documents to the best of the directors' knowledge (see UKLR 10.4.1R(6), existing LR 13.4.1R(4) and item 1.2 of Annex 1 and item 1.2 of Annex 11 to the UK version of Regulation (EU) 2019/980).

By requiring the board to give a declaration which is not limited to matters within the directors' knowledge, UKLR 20.3.1R overlooks this important principle and arguably circumvents the statutory limitations imposed on the FCA's power to fine directors by section 91(2) of FSMA 2000. If the board believes that the issuer's systems and procedures are adequate at admission, but in fact they are not, then the FCA could not fine the directors under section 91(2) of FSMA 2000 (as the directors were not "knowingly concerned" in a contravention of LP 1). However, the board's declaration would not be accurate and the FCA could potentially (at least in theory) bring a civil claim against the directors.

We therefore suggest that UKLR 20.3.1R is amended so that the confirmation is provided by the applicant instead and is aligned with the company's obligations under LP 1, as follows:

> "An applicant must provide confirmation ~~from the board~~ that it ~~the applicant~~ has taken reasonable steps to establish~~ed~~ adequate procedures, systems and controls to enable it to comply with its obligations under the listing rules, disclosure requirements, transparency rules and corporate governance rules following admission."

We would note that there are additional provisions in the draft UKLR which reference a confirmation being provided by the board, including LR 14.2.6G and UKLR 21.4.3G(4)(b), for example. In line with our comments above, we would suggest that the proposed drafting in each case is reviewed.

As drafted, the declaration under UKLR 20.3.1R must be given by all applicants when applying for the admission of any securities to listing (see UKLR 20.2.2R(1)(a)). This includes applying to admit any shares issued to directors and employees under long-term incentive plans or employee share schemes (or alternatively when applying for the relevant block listing) or any debt securities issued under an MTN programme for the issuance of debt securities. For many issuers this will require the declaration to be given annually or more frequently. We would therefore encourage the FCA to consider limiting the application of UKLR 20.3.1R such that the confirmation should not need to be provided more than once per year, for example, for each applicant i.e. UKLR 20.3.1R should not apply if a confirmation has been provided within the last 12 months.

UKLR 20.3.2G

Draft UKLR 20.3.2G provides that "The FCA will not grant an application for admission if an issuer is unable to provide the board confirmation required under UKLR 20.3.1R. When considering an application for admission, the FCA would expect the applicant to be able to demonstrate its readiness

to comply with its obligations under the listing rules, disclosure requirements, transparency rules and corporate governance rules following admission."

In this respect, we would query how an applicant can "demonstrate its readiness" to the FCA, beyond complying with other relevant rules which already govern this area. The applicant will already be required to submit a declaration under UKLR 20.3.1R. An applicant with existing listed securities will already be obliged by LP 1 to have adequate procedures, systems and controls in place and must also take reasonable steps to enable its directors to understand their responsibilities and obligations under Listing Principle 3, noting the relevant Transitional Provisions in this respect. The sponsor will review a new or transferring applicant's procedures and related documents in order to give its declarations to the FCA under UKLR 24.3.2R(4) and (5) or UKLR 24.3.13R(3) and (4), subject to the application of the modified transfer process. The sponsor's declaration will presumably also confirm it has taken reasonable steps to satisfy itself that the directors of a new or transferring applicant understand their responsibilities and obligations (UKLR 24.2.8R, reflecting existing LR 8.3.4R). We presume the FCA will not seek to duplicate the sponsor's work or require confirmations which repeat those given under UKLR 20.3.1R and the sponsor declaration. If this is not the case, then it would be helpful if the FCA were to clarify what more UKLR 20.3.2G requires.

2. UKLR 2.2 - Directors' obligations regarding effective governance arrangements

Draft UKLR 2.2.3G provides that "For the purposes of Listing Principle 1, directors should take reasonable steps to ensure that effective governance arrangements are in place and maintained at all times to enable the listed company to comply with Listing Principle 1."

The board of directors' role is primarily to provide strategic leadership and high-level oversight. Under the UK Corporate Governance Code, at least half the board (excluding the Chair) should be independent non-executives, not full-time employees. The board can take steps to put the necessary governance policies in place and to review them as appropriate at periodic board meetings. However, the board is unable to ensure that those polices are "effective" and that related arrangements are "maintained at all times" - this will depend on how thoroughly and consistently each policy is implemented by the issuer's personnel on a day-to-day basis, how they exercise any discretion granted under the policy and how they interpret or apply the policy in cases of doubt. We do not think it is appropriate to give the board a responsibility that arguably requires it to supervise closely and continuously the activities and practices of particular personnel.

In addition, LP 1 only obliges issuers to "maintain adequate procedures, systems and controls". It seems inconsistent to require the directors (and only the directors) to ensure that the issuer's arrangements under LP 1 relating to governance are also "effective". What is the difference between "adequate" and "effective"? Is "effective" intended to introduce a higher standard, or to impose additional requirements? When can directors reasonably conclude that governance arrangements are effective? For example, if minor or isolated instances of non-compliance with a particular arrangement have occurred which have been remediated or are in the process of being remediated and this has not given rise to any significant consequences, then this should not mean that the governance arrangements as a whole are not effective. Effectiveness also needs to be defined in a way that works for both small and large issuers (as larger corporate groups will have more complex arrangements). We would prefer that the UKLRs avoided these complexities by maintaining the existing and well-understood standards imposed by LP 1.

To address these issues and more closely track the wording of LP 1, we would recommend amending UKLR 2.2.3G as follows:

> "For the purposes of Listing Principle 1, directors should take reasonable steps to ensure that adequate ~~effective~~ governance arrangements are established ~~in place~~ and reviewed by the directors periodically as appropriate ~~maintained at all times~~ to enable the listed company to comply with Listing Principle 1."

3. UKLR 22.1: Eligibility for transition category and mapping of existing standard listed companies

The table in paragraph 16.12 of the CP indicates that most existing standard listed companies will be mapped to:

- the shell companies category, if the FCA considers the company meets the definition of "shell company";
- the secondary listing category, if the FCA considers that the company satisfies the requirements of that category;
- the non-equity shares and non-voting equity shares category; or
- if the company is not eligible for any of the above categories, the transition category. Therefore, if an existing standard listed company is eligible for one of the other three categories, it will be mapped to the relevant one of those categories and not to the transition category.

Shell companies category

As noted in our response to question 46 of the CP, if the draft rules for shell companies were to be introduced as proposed, we suspect the vast majority of cash shells will not meet the requirements of this category (for example, because their constitution does not require them to complete an acquisition within 24 months and shareholders may not be willing to vote to change the constitution) and will therefore be mapped to the transition category. We also suspect that all or most of them will want to remain there rather than submitting to the more onerous obligations in the shell companies category.

For similar reasons, where an existing shell company is eligible for the shell companies category, it may prefer to be mapped to the transition category. Whilst this option does not appear to be contemplated in the draft rules, we would suggest that the FCA should be prepared to discuss such a possibility with an issuer on a case-by-case basis. Such discussions could presumably take place between the time when the FCA informs a company which category it is proposed that the company will be mapped to and the new rules coming into force (which we note will be at least four weeks). It would be helpful if this optionality could be confirmed by the FCA in advance of the new rules taking effect.

Secondary listing category

Under draft UKLR 14, in order to be eligible for the secondary listing category an issuer would have to (among other things):

- be incorporated overseas;

- have a “qualifying home listing” – i.e. a listing of equity shares on an overseas market that satisfies certain criteria; and

- have its place of central management and control in either its country of incorporation or the country of its qualifying home listing (the CM and C requirement) – although we note that under Transitional Provisions this requirement will not apply to existing standard listed issuers and inflight applicants.

We agree with the FCA’s intention not to allow companies to use UKLR 14 to avoid some of the requirements of the UKLRs for commercial companies with a listing of equity shares and consider the purpose of the eligibility requirements for this category should be to identify, and limit the category to, genuine secondary listings. However, as set out in our response to question 29 of the CP, subject to a policy intent underlying the choice of certain of the proposed eligibility requirements (namely, the requirement for an applicant not to be a UK incorporated company and the CM and C requirement), our concern is that these criteria are not relevant to determining whether or not a company has a genuine secondary listing in London.

A possible solution to the problem of a company with a primary listing overseas obtaining a UKLR 14 secondary listing that, over time, became effectively the primary listing, could be to employ a liquidity test similar to that used as one of the factors to determine eligibility for the FTSE UK Index Series (see paragraphs 5.1.4 and 6.7 of FTSE UK Index Series Ground Rules (lseg.com) and FTSE UK Index Series – calculation method guide (lseg.com)). Such a test could just as well be applied to overseas companies as UK companies, as in no case would it be desirable for a company to be listed under UKLR 14, but have the UK listing as its primary listing in terms of trading liquidity.

We would also note that the definition of “qualifying home listing” appears to exclude US-listed foreign private issuers (or companies with equivalent status under other countries’ securities laws) from its scope, which would be inconsistent with how the FCA currently treats such issuers under the DTRs. We would like to see US-listed foreign private issuers have the potential to be listed in this category by a corresponding amendment to the "qualifying home listing" definition.

Transition category

As noted above, according to the CP, if an existing standard listed company is eligible for another category, it will be mapped to that category rather than to the transition category. Further, paragraph 13.9 of the CP provides that the transition category is designed for issuers of standard listed shares for whom the UK is their "only or ‘primary’ equity listing" – although there is no such requirement in UKLR 22. As noted in our response to question 28 of the CP, we do not think the transition category should be limited to standard listed issuers where the UK is their “only or ‘primary’ equity listing.” Imposing such a limitation has the effect of creating a “gap” and associated ambiguity in relation to standard listed issuers for whom London is not their sole or primary listing and who also do not qualify for the secondary listing category - for example, because they are UK incorporated. It would be helpful if the FCA could confirm, ideally well in advance of the new rules coming force, that such companies would be mapped to the transition category.

Conversely, there may be some issuers that would be eligible for the secondary listing category but that may prefer to be mapped to the transition category. Under the draft rules, an issuer in the transition category will broadly have to comply with rules that replicate the current continuing

obligations in LR 14, whereas an issuer in the secondary listing category will have to comply with those continuing obligations in addition to other new continuing provisions. It is therefore possible that an existing standard listed company with a primary listing overseas that is eligible for the secondary listing category may prefer to be mapped to the transition category. Again, this does not appear to be contemplated in the draft rules, but we would suggest that the FCA should be prepared to discuss such a possibility with an issuer on a case-by-case basis. As above, it would also be helpful, from a planning perspective, if this optionality could be confirmed by the FCA in advance of the new rules taking effect.

4. UKLR 14.3 - Annual reporting requirements for companies in the secondary listing category

We are concerned that the provisions in draft UKLR 14.3 24R to UKLR 14.3.34G on TCFD Recommendations and diversity reporting in the secondary listing category are not consistent with the principle that the category is designed to accommodate companies whose domestic company law or rules of their “primary” listing venue may make it more difficult to meet the full listing requirements of the commercial companies category (see paragraph 13.16 of the CP).

Although the provisions are carried across from current LR 14.3.27R to LR 14.3.37G, they are relatively new and may be a deterrent to existing listed companies retaining their London listings or to potential new applicants. If the FCA believes it is essential as a policy matter to retain climate and diversity disclosures for these companies, we would suggest that, to the extent that the issuer’s domestic laws or primary listing rules require similar disclosures, it should be able disclose under those regimes and explain any differences from the UKLR regime.

In particular, the TCFD disclosures, although technically comply or explain, are onerous to comply with and, in UKLR 14.3.28G, the FCA expresses the expectation that companies should comply unless there are "transitional challenges in obtaining the relevant data or embedding relevant modelling or analytical capabilities". Third countries may have different standards or requirements and it may be onerous to comply with both.

In addition, certain of the diversity disclosures are mandatory, and not comply or explain. This includes mandatory data for reporting gender but also ethnic diversity, the latter of which seems particularly inappropriate for an overseas listing category as the groupings on ethnic background are not tailored to an international perspective.

Relatedly, we would query whether the TCFD and diversity disclosures should apply to issuers that fall within scope of UKLR 15 - Certificates representing certain securities (depositary receipts) and UKLR 16 – Non-equity shares and non-voting shares, as contemplated by the draft UKLR.

5. UKLR 14.3 – Issuer must notify FCA of any non-compliance with applicable rules of the market of its qualifying home listing

We do not think it is appropriate for UKLR 14.3.3R to extend the obligation to notify the FCA to any situation where the issuer no longer complies with UKLR 14.3.2R (i.e. its obligation to comply with the applicable rules of the market of its qualifying home listing at all times).

No similar obligation appears in existing LR 14. We would also note that Chapter 13 of the CP (and, in particular, paragraph 13.24) did not mention that the FCA proposed to add this significant new provision or provide any evidence of regulatory failures caused by the absence of such a requirement from

existing LR 14. Existing Listing Rule obligations which require issuers to notify the FCA of breaches of rules, such as LR 9.2.23R to LR 9.2.26G (to be replaced by UKLR 6.2.38R to UKLR 6.2.41G), are limited in scope and do not require issuers to report breaches of requirements imposed by any regulator other than the FCA.

We note that when FSA CP 12/25 originally proposed what became existing LR 9.2.23R in a broader form - "A listed company that has equity shares listed must notify the FSA without delay if it no longer complies with any continuing obligation set out in LR 9.2" - the consultation response from a joint working party of the Company Law Committees of the City of London Law Society and the Law Society of England and Wales stated as follows:

> "We think that this should only require notification of non-compliance with LR9.2.2A – that is, the continuing requirements for eligibility for premium listing, so that it does not have the effect of imposing a general obligation on all premium listed issuers to notify breaches of the continuing obligations set out in LR 9.2. This obligation has been debated before and has been rejected. We continue to think that as a matter of principle, it is inappropriate to impose such an obligation. This obligation would lead to a fundamental change in the relationship of all issuers with the FSA and we submit that it should have been accorded more significance in the consultation paper so as to ensure that it was properly understood."

The FCA then proposed more limited forms of what are now LR 9.2.23R to LR 9.2.26G in CP 13/15. The FCA commented on its original proposal in paragraph 9.6 of CP 13/15:

> "However, many respondents pointed out that, as drafted, it significantly broadens the scope of the notification obligations from the current requirement, which relates solely to breaches of the free float. Respondents raised concerns that it imposed a significant reporting burden on the premium listed companies because the rule in its draft form would catch a much wider set of breaches, however minor. It was also suggested that some of the continuing obligations were not as objective as the free float requirement and it would not be easy for premium listed companies to identify non-compliance…
>
> We have reflected on the responses received and have, consequently, modified LR 9.2.24R [now LR 9.2.23R] to only bring within scope of the notification obligations eligibility requirements that have continuing effect. We have amended LR 9.2.24R to specifically refer to those rules where we would expect to be notified of breaches without delay."

The same concerns would arise for issuers under UKLR 14.3.3R – but in expanded form given UKLR 14.3.3R requires notification of any breach of the applicable rules of the market of the issuer's qualifying home listing. Additional complexities could also arise under UKLR 14.3.3R because the relevant rules will be made, interpreted and enforced by a home market regulator, not the FCA.

We would therefore suggest that UKLR 14.3.3R should be amended such that it does not refer to non-compliance with UKLR 14.3.2R.

6. UKLR 5.4 - Constitutional arrangements / listed companies with more than one class admitted

We note that UKLR 5.4.3R provides that "Where the applicant will have more than one class of equity shares admitted to the equity shares (commercial companies) category, the aggregate voting rights of the equity shares in each class should be broadly proportionate to the relative interests of those

classes in the equity of the listed company." Accompanying guidance to this rule is set out in UKLR 5.4.4G. The provisions in UKLR 5.4.3R and UKLR 5.4.4G are repeated in UKLR 6.2.32R and UKLR 6.2.33G, respectively. In the context of the continuing obligation (UKLR 6.2.32R), we query whether the drafting could be streamlined such that it provides that "A listed company must comply with UKLR 5.4.3R at all times." UKLR 6.2.33G could then be deleted.

7. UKLR 15 - Certificates representing certain securities (depositary receipts): requirements for listing and continuing obligations

We note the title for this category refers to "Certificates representing certain securities (depositary receipts)" whereas the provisions in UKLR 15 only reference the shares which the certificates represent. This is consistent with paragraph 13.54 of the CP which proposed to remove certificates representing debt securities from this category. It might therefore be clearer for the title of the category to be updated to "Certificates representing shares (depositary receipts): requirements for listing and continuing obligations."

8. Russian or Belarus sanctions confirmations

While the FCA's requirement for a Russian or Belarus sanctions confirmation is now mentioned on the FCA's website, this requirement still has the potential to cause confusion for issuers and advisers, especially for personnel who deal with the FCA less frequently. It is important that market participants are aware of the documentation they must submit to initiate regulatory processes – for example, applying for admission. Where the rules set out lists of documents which must be submitted to the FCA, it would be helpful if these could be complete. We would therefore suggest that the FCA's requirement for a Russian or Belarus sanctions confirmation letter or email could be added to the lists of documents in UKLR 10.2.3R, UKLR 20.2.2R and UKLR 21.5.4R(3), for example (in addition to any other rules which the FCA considers relevant).

9. Reducing familiarisation costs

The proposed changes to the listing regime reflected in the UKLRs are significant and market participants will need to familiarise themselves with the new rules. To help market participants with this process, thereby reducing familiarisation and transition costs, it would be very helpful if, following publication of the UKLRs, the FCA could publish a table of derivations/origins covering the final form UKLRs - in a similar way to Appendix 3 to the CP, which set out a partial table of derivations/origins.

10. Mid-flight transactions

We have set out in the Appendix a number of potential mid-flight transaction scenarios, together with an accompanying analysis of the treatment of such transactions. It would be helpful for market participants, from a transactional planning perspective, if the FCA were able to consider and provide guidance and/or feedback on the proposed treatment of such scenarios.

Appendix

Mid-flight transactions

No.	Heading	Description	UKLR treatment
1.	Break fee	Premium listed issuer enters into a SPA to dispose of a subsidiary prior to the	*Pre-transition date*

No.	Heading	Description	UKLR treatment
		date on which the UKLR sourcebook comes into force (transition date). The transaction falls below the class test threshold for a class 1 transaction. The SPA contains a break fee, payable by the issuer to the purchaser, which is capped at one per cent. of the issuer's market capitalisation – provided that the cap shall no longer apply following the transition date. The transaction is expected to complete following the transition date.	Break fee arrangement not subject to the LR 10 requirements applicable to class 1 transactions on the basis of the cap (LR 10.2.7R). FCA to confirm whether this cap is acceptable. Class 2 notification requirements apply if the transaction meets the relevant class test threshold. *Post-transition date* No disclosure requirements under the UKLR on the basis that the transaction falls below the class test threshold for a significant transaction and break fee arrangements are excluded from the meaning of "transaction". Issuer to consider general disclosure obligation under article 17 of UK MAR (i.e. to the extent the terms of the transaction and/or break fee have not already been announced).
2.	Indemnity	Same transaction described under "Break fee" above save that the SPA also contains a provision whereby the issuer would indemnify the seller for potential exceptional tax liabilities. The indemnity is considered non-standard and is capped at one per cent. of the issuer's market capitalisation (in this example, assume that the profits test for the purpose of LR 10.2.4R would produce an anomalous result) – provided that the cap shall no longer apply following the transition date.	*Pre-transition date* Indemnity not subject to the LR 10 requirements applicable to class 1 transactions on the basis of the cap (LR 10.2.4R). FCA to confirm whether this cap is acceptable. Class 2 notification requirements apply if the transaction meets the relevant class test threshold. Issuer to also consider general disclosure obligation under article 17 of UK MAR and anticipated disclosure requirements under UKLR 7.4.1R(1) that would apply post-transition on the basis the indemnity would become uncapped upon the transition date.

No.	Heading	Description	UKLR treatment
			Post-transition date Uncapped "exceptional" indemnity would require notification as a significant transaction pursuant to UKLR 7.4.1R(1). This would need to be notified to a RIS as soon as reasonably practicable after the transition date and prior to completion (UKLR TP 6.5R). This notification must comply with the requirements in UKLR 7.3 (Significant transactions) (UKLR 7.4.1R(2)). Issuer generally not required to engage a sponsor except where it needs to seek individual guidance or modify/waive/substitute the operation of UKLR 7. Issuer to also consider general disclosure obligation under article 17 of UK MAR.
3.	Class 1 transaction	Premium listed issuer enters into a SPA to dispose of a subsidiary prior to the transition date. The transaction exceeds the class test threshold for a class 1 transaction. There is flexibility as to whether the transaction completes before or after the transition date.	*Pre-transition date* Issuer required to comply with the LR 10 requirements applicable to class 1 transactions. Given this, the parties agree to enter into the SPA before the transition date but to delay completion until after the transition date. The SPA contains a shareholder approval condition which would no longer apply upon the transition date occurring on or before a specified longstop date, and the shareholder circular is not required to be posted until after the expected transition date. The issuer releases a RIS shortly after entry into the SPA containing the notification requirements under LR 10.4.1R. However, it does not prepare a shareholder circular or obtain shareholder approval for the transaction prior to the transition date.

No.	Heading	Description	UKLR treatment
			Post-transition date Issuer no longer subject to the requirements under LR 10.5.1R with respect to class 1 transactions. Issuer generally not required to engage a sponsor except where it needs to seek individual guidance or modify/waive/substitute the operation of UKLR 7. However, notwithstanding the transaction already having been announced pursuant to LR 10.4.1R and 10.5.1R, the issuer would need to notify the transaction as a significant transaction pursuant to UKLR TP 6.5R. This would need to be notified to a RIS as soon as reasonably practicable after the transition date and prior to completion. This notification must comply with the requirements in UKLR 7.3 (Significant transactions) (UKLR 7.4.1R(2)).
4.	Material change to the terms of a class 1 transaction	Premium listed issuer enters into a SPA to dispose of a subsidiary prior to the transition date. The transaction exceeds the class test threshold for a class 1 transaction. The SPA contains closing conditions, including a requirement to obtain shareholder approval and antitrust conditions. Prior to the transition date, the issuer posts a FCA-approved shareholder circular and obtains shareholder approval for the transaction in accordance with LR 10.5.1R. The transaction then becomes subject to a phase 2 CMA reference which means that completion would occur after the transition date. Further, following the transition date, the phase 2 reference process results in the parties agreeing to make material changes to the terms	*Post-transition date* Issuer no longer required to post a supplementary circular under LR10.5.4R. Issuer generally not required to engage a sponsor except where it needs to seek individual guidance or modify/waive/substitute the operation of UKLR 7. Notwithstanding the publication of a LR 10 circular prior to the transition date, the issuer would need to release (as soon as possible following the agreement to vary the transaction terms) a supplementary RIS, in accordance with UKLR TP 6.6R(2) and UKLR 7.3.11R. due to the material change.

No.	Heading	Description	UKLR treatment
		of the transaction in order to secure the regulatory clearances.	
5.	Related party transaction (delayed closing)	Premium listed issuer proposes to enter into a related party transaction (outside the ordinary course) prior to the transition date which would exceed 5% in at least one of the class tests. There is flexibility as to whether the transaction completes before or after the transition date.	*Pre-transition date* Issuer required to comply with the LR 11.1.7R requirements applicable to related party transactions. Given this, the parties agreed to enter into the transaction before the transition date but to delay completion until after the transition date. The transaction agreement contains conditions relating to the posting of a shareholder circular (satisfying the requirements of LR 11.1.7R(2)) and obtaining the approval of independent shareholders, provided that these conditions would no longer apply upon the transition date occurring on or before a specified longstop date, and the shareholder circular is not required to be posted until after the expected transition date. The issuer releases a RIS shortly after entry into the transaction in accordance with LR 11.1.7R(1). *Post-transition date* Issuer no longer subject to the requirements under LR 11.1.7R applicable to related party transactions. However, notwithstanding the transaction already having been announced pursuant to LR 11.1.7R(1), the issuer would need to comply with the requirements of UKLR 8.2.1R, including obtaining a fair and reasonable opinion from a sponsor and releasing a RIS pursuant to UKLR 8.2.1R(4) as soon as reasonably practicable after the transition date but in any event prior to completion of the transaction (UKLR TP 6.5R).

No.	Heading	Description	UKLR treatment
6.	Related party transaction (ordinary course)	Premium listed issuer which operates a theme park proposes to acquire a collection of new rollercoasters from a substantial shareholder. The costs are significant and would exceed 5% in at least one of the class tests.	*Pre-transition date* Unclear under the current LRs whether the transaction would be exempted from the definition of related party transaction. If not exempt and if entered into prior to the transition date, the transaction would be subject to the requirements under LR 11.1.7R, including (amongst other things) preparation of a FCA-approved shareholder circular and obtaining the prior approval of shareholders for the proposed transaction. *Post-transition date* Proposed transaction would appear to be exempt as an ordinary course of business transaction under UKLR 8.1.15G. The issuer would need to consider whether to wait until the transition date (in order to rely on the guidance on "ordinary course") before undertaking the acquisitions.
7.	Standard listed issuer with live prospectus in relation to a reverse takeover	Standard listed issuer enters into a SPA to make a material acquisition which would amount to a reverse takeover (the first acquisition). The issuer has published a prospectus, its shares are trading, but the acquisition is subject to a number of conditions which have not yet been satisfied prior to the transition date. The issuer then enters into a new transaction (the second transaction) which under the current rules would only require a supplementary prospectus but might be considered a material change to the issuer's overall business proposition.	*Post-transition date* To require the issuer to prepare an entirely new prospectus for the second transaction would be unduly onerous as satisfying the requirements for a supplementary prospectus would provide investors and the FCA with all of the information required. It would also enable the in-flight first acquisition to be completed without requiring amendment to the SPA. In addition, if a new prospectus was required, that would likely breach the requirements of the SPA on the first acquisition and make the second transaction effectively conditional upon

No.	Heading	Description	UKLR treatment
		The second transaction is expected to complete following the transition date.	the seller to the first acquisition agreeing to amend the conditions to the SPA. Guidance should make clear in such a situation that the second transaction would not be considered a material change to the issuer's overall business proposition.