

# Feedback and Policy Statement on CP14/02\*\*, consultation on joint sponsors and call for views on sponsor conflicts

September 2014





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We are asking for comments on the proposed Technical Notes on sponsor competence (Annex 1) by 7 November 2014. Comments on our joint sponsor proposals and call for views on sponsor conflicts should reach us by 30 December 2014.

You can send them to us using the form on our website at:  
[www.fca.org.uk/your-fca/documents/consultation-papers/cp14-21-response-form](http://www.fca.org.uk/your-fca/documents/consultation-papers/cp14-21-response-form).

**Or in writing to:**

Victoria Richardson  
Markets Division  
Financial Conduct Authority  
25 The North Colonnade  
Canary Wharf  
London E14 5HS

**Telephone:** 020 7066 6372  
**Email:** [cp14-21@fca.org.uk](mailto:cp14-21@fca.org.uk)

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We make all responses to formal consultation available for public inspection unless the respondent requests otherwise. We will not regard a standard confidentiality statement in an email message as a request for non-disclosure.

Despite this, we may be asked to disclose a confidential response under the Freedom of Information Act 2000. We may consult you if we receive such a request. Any decision we make not to disclose the response is reviewable by the Information Commissioner and the Information Rights Tribunal.

You can download this Consultation Paper from our website: [www.fca.org.uk](http://www.fca.org.uk).

## Abbreviations used in this paper

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<b>DTR</b>	Disclosure Rules and Transparency Rules
<b>ESMA</b>	European Securities and Markets Authority
<b>FCA</b>	Financial Conduct Authority
<b>FSMA</b>	Financial Services and Markets Act 2000
<b>LR</b>	Listing Rules
<b>PR</b>	Prospectus Rules
<b>SEE</b>	Suitably Experienced Employee
<b>UKLA</b>	UK Listing Authority
<b>UKLA Knowledge Base</b>	The Knowledge Base is the UKLA's repository of available technical guidance on the FCA Listing Rules, Prospectus Rules and Disclosure Rules and Transparency Rules. It helps both issuers and practitioners advising issuers to interpret these rules: <a href="http://www.fca.org.uk/firms/markets/ukla/knowledge-base">www.fca.org.uk/firms/markets/ukla/knowledge-base</a>
<b>NOMAD</b>	Nominated Adviser as defined by the AIM rules

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# 1. Overview

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## Introduction

### Why are we issuing this paper?

- 1.1** We are setting out our feedback and final rules in response to CP14/02 'Proposed amendments to the Listing Rules in relation to sponsor competence and other amendments to the Listing Rules and Prospectus Rules'<sup>1</sup>. Respondents were supportive of our overall policy aims and we are grateful for the feedback we received. Reflecting on this we have changed our proposals in some areas to make it easier for the market to implement our new requirements. Although sponsor conflict management was not the subject of CP14/02 respondents did comment on the current approach to the identification and management of conflicts of interest relevant to firms providing sponsor services. So we are also taking this opportunity to invite views from as wide a range of stakeholders as possible on whether the current rules and guidance on sponsor conflicts are appropriate and effective, and if we should consider any changes to these. This paper also sets out our proposals relating to joint sponsors.

### Background

- 1.2** In January 2014 we published CP14/02 'Proposed amendments to the Listing Rules in relation to sponsor competence and other amendments to the Listing Rules and Prospectus Rules'. The consultation period closed on 30 April and we received 28 responses from a wide range of stakeholders.
- 1.3** In chapter 2 of this paper we set out our responses to the feedback we received. The final rules will be effective from 1 October 2014 except for those contained in LR8, LR 11 and the definitions, which become effective on 1 February 2015. We are also consulting on formal FCA guidance applicable to our proposals on sponsor competence. This draft guidance is contained in two Technical Notes<sup>2</sup> which form part of this consultation (in Annex 1).
- 1.4** When responding to CP14/02 some stakeholders highlighted their concerns about the operation of the current rules on sponsor conflicts of interest. Recognising that this is an important part of the sponsor regime, we are inviting views from as wide a range of stakeholders as possible on whether the current Listing Rules (LR) and FCA guidance on sponsor conflicts are appropriate and effective, and if we should consider any changes to these. See chapter 3.
- 1.5** CP14/02 also included some open questions on the use of joint sponsors. As a result of the responses received, we are consulting on some minor proposed changes to LR8 on whether issuers can appoint more than one sponsor and our expectations of sponsors acting in a joint capacity (chapter 4). We are also consulting on formal FCA guidance in relation to some of the

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<sup>1</sup> [www.fca.org.uk/static/documents/consultation-papers/cp14-02.pdf](http://www.fca.org.uk/static/documents/consultation-papers/cp14-02.pdf)

<sup>2</sup> After consultation, the Technical Notes will appear on the UKLA's Knowledge Base.

practical aspects of joint sponsor arrangements. This draft guidance is contained in a Technical Note<sup>3</sup> (in Annex 3).

### Who should read this paper?

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- 1.6** This paper will be of interest to:
- premium listed issuers or issuers considering a premium listing of their securities
  - firms and sponsors advising issuers of premium listed securities
  - firms or persons investing in or dealing in premium listed securities
  - those responsible for submitting a prospectus to us for approval

### Is this of interest to consumers?

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- 1.7** This paper will be of interest to consumers who deal and invest in premium listed securities either directly, or indirectly through institutions. In addition, this paper will be of interest to premium listed issuers or applicants for premium listing as consumers of sponsor services. The policy proposals raise issues concerned with protecting investors.

### Feedback to CP14/02

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- 1.8** In CP14/02 we consulted on proposed changes to the Listing Rules, in particular in relation to sponsor competence, which covered three key elements:
- i. a requirement for sponsors to have produced a sponsor declaration in the last three years
  - ii. a requirement for sponsors to staff sponsor functions with a sufficient number of employees meeting key competencies as assessed against an adopted competence framework and
  - iii. strengthening the requirements of a sponsor when liaising with the FCA through the introduction of a 'key contact' role.

### Our approach to sponsor competence proposals

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- 1.9** As we set out in CP14/02, a fundamental principle of all our work in maintaining the integrity of the premium listing regime – and key to the FCA's strategic objective to make markets work well – is that shareholders should be actively engaged and able to take decisions on a properly informed basis. Sponsors play a critical role in this by providing investors with confidence in the integrity and effectiveness of that regime. The proposals in CP14/02 were designed to enhance the sponsor regime by making it more robust and transparent.

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<sup>3</sup> After consultation, the Technical Note will appear on the UKLA's Knowledge Base.



- 1.10** Responses to our proposals were supportive of these overall aims and we are grateful to our stakeholders for the input we have received. Since the consultation period closed we have met with stakeholder groups representing the broad range of views received, to explore further some aspects of their feedback, particularly where respondents argued that our proposals were too prescriptive and unnecessarily burdensome. We have reflected on these concerns carefully and have, as a result, changed the detail of our proposals in a number of aspects. This means we will achieve the same policy outcomes but will allow the market to implement the new requirements more easily. Overall, we are confident that that the amended proposals are well understood and supported by the majority of stakeholders.
- 1.11** We set out below a high level summary of the key changes. Further details of the changes made are set out in chapter 2.
- 1.12** **One sponsor declaration in the last three years.** Overall, most respondents supported the proposal. However, respondents highlighted that there may be scenarios where a sponsor is unable to meet the test but could demonstrate compliance in other ways. We have retained the original threshold requirement in our proposals for sponsor competence, as we continue to believe that a proven track record of acting as sponsor is the best way to demonstrate relevant expertise. However, we have inserted Guidance which highlights our ability to use the existing modification rule (LR1.2.1R) within LR8. Further details of when we may be likely to consider modification are set out in our response to Q2 in chapter 2.
- 1.13** **Competency sets and competence framework.** Overall, respondents supported our policy intention of increasing transparency around our expectations of the skills, knowledge and expertise sponsors should meet in order to demonstrate competence. However, many respondents voiced concerns with our proposed approach to assessing these through a competence framework. We have met with stakeholders to discuss their concerns and as a result we have amended our approach. We will now require a sponsor to have in place systems and controls designed to meet our proposals regarding competency as set out in LR 8.6.7R(2) (b) (the 'competency sets'), which remain unchanged in the rules. We believe this amended approach achieves the same policy outcome but in a way which allows sponsors to tailor their approach to compliance in the most cost-effective way for their firm. To reflect these changes, and to meet requests for further guidance on some of these areas, we have amended the Technical and Procedural Notes included in CP14/02 which are now subject to consultation. These notes can be found in Annex 1. We have also amended the Annual Notification Form and New applicant Form which are annexed for information purposes at Annex 2.
- 1.14** **Key contact.** Overall, stakeholders were supportive of the concept of 'key contacts'. However, some respondents raised concerns about the level of skills, knowledge and expertise that we expected of key contacts. They also raised concerns about the practical implications of the proposal. Subject to some minor amendments, we intend to retain the concept of a key contact. But they will no longer need to be proficient in the FCA procedural requirements and processes, as we recognise that this knowledge may reside elsewhere in the firm acting as sponsor. We have also provided guidance on our expectations in dealing with key contacts. Further details are set out in the Technical Note in Annex 1.

### Sponsor conflicts

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- 1.15** Although sponsor conflict management was not the subject of our consultation in CP14/02, respondents did comment on the current approach to the identification and management of conflicts of interest relevant to firms providing sponsor services. In addition we have been in

discussions with stakeholders who hold diverse views on the regulatory approach to identifying and managing conflicts of interest by sponsors, in particular whether the sponsor regime as a whole appropriately protects the interests of investors as consumers. So we are taking this opportunity to set out (in Chapter 3) some of the issues raised with us and to invite views from as wide a range of stakeholders as possible on whether the current rules and guidance on sponsor conflicts are appropriate and effective, and if we should make any changes.

### Joint sponsor proposals

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- 1.16** We were encouraged by the level and content of the responses received on the discussion questions in relation to the use of joint sponsors in CP14/02. We believe that sponsors and other stakeholders have welcomed the opportunity to discuss this area. Respondents were overwhelmingly in favour of retaining the joint sponsor regime and accordingly we propose to retain it. However, to reflect some of the responses, we are now consulting on certain proposed changes to the listing rules and a new Technical Note, which will be formal FCA guidance. These proposals are primarily designed to facilitate access to the FCA for all sponsors and to ensure appropriate arrangements are in place between joint sponsors to help them perform their role.

### Next steps

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- 1.17** The consultation period in respect of our joint sponsor proposals including the proposed Technical Note in relation to joint sponsors (set out in Annex 3) and the question in relation to sponsor conflicts closes on 30 December 2014. We expect to publish our feedback on the joint sponsors proposals in the second quarter of 2015. Regarding the sponsor conflicts call for views set out in Chapter 3 we will, subject to responses, consider developing specific options or proposals for discussion in a further paper later in 2015.
- 1.18** The consultation on the Technical Notes on sponsor competence (Annex 1) will close on 7 November 2014 and we expect to have the final Notes published on the UKLA Knowledge Base available on 1 February 2015.

## 2. Feedback on CP14/02

- 2.1** In this chapter we set out the feedback we received in response to the consultation questions raised in CP14/02. In addition we also raise two new consultation questions in relation to our revised Technical Notes which are set out in Annex 1. Please see paragraphs 2.35 and 2.37.

### Prior sponsor experience

**Q1:** *Do you agree that prior relevant sponsor experience (evidenced by a sponsor declaration submitted to the FCA) should be a measure of sponsor competence (LR 8.6.7R(1))?*

**Q2:** *Do you agree that a timeframe of three years is appropriate (LR 8.6.7R(1))?*

- 2.2** Our proposals in relation to prior sponsor experience generated detailed and helpful feedback. Most respondents supported us using prior sponsor experience as a measure of sponsor competence.
- 2.3** However, some respondents raised concerns that the requirement for the submission of specific sponsor declarations was overly prescriptive, and that other sponsor services should be included in our consideration, particularly reverse takeover declarations and work carried out under LR 8.2.1R(5) (sponsor appointment where there is a breach of the LRs or DTRs). Several stakeholders suggested we should also take into account other corporate finance experience (e.g. NOMAD work, experience of Takeover Code, advice on PR, LR, DTRs, aborted sponsor transactions) or experience gained when acting in a similar capacity in another jurisdiction.
- 2.4** Some respondents considered a three-year time limit to be too rigid and said the FCA should retain more flexibility, for instance, by making this requirement guidance only, or an evidential requirement in the Handbook, for existing sponsors.
- 2.5** A number of respondents were concerned that our proposals requiring a sponsor declaration to be submitted in the last three years would have a negative impact on competition, specifically for less active sponsors. Most of these saw this requirement as leading inevitably to a smaller pool of sponsors.

#### Our response:

In CP14/02, as part of our revised approach to competence, we proposed introducing an explicit need for sponsors to have submitted at least one specified sponsor declaration in the last three years. This was intended to act as a basic threshold condition for assessing competence as we believe the less

recent the experience of acting as sponsor, the less relevant it is in terms of demonstrating competence.

We continue to believe that introducing this condition is in line with our Transparency Framework, published in August 2013, which sets out our commitment to be clear in how we communicate and work and to exercise our functions as transparently as possible. As we operate a principles-based approach to sponsor competence, our proposals make our approval criteria clearer for prospective sponsors. We also believe the proposals will give existing sponsors sufficient guidance to continue to meet our criteria for approval. Furthermore, a transparent approach to competence is, in our view, important for other stakeholders, such as premium listed issuers, investors and other advisers. We do not consider the use of guidance, or the introduction of an evidential requirement in the Handbook, to be sufficiently transparent in this context.

We chose the defined sponsor declarations as they provide an objective and practical measure of the substantive aspects of the sponsor role, i.e. consideration of disclosures made in public documents; the impact of the transaction on the issuer; and whether the issuer has sufficient working capital. All other sponsor services require more specific, or bespoke, confirmations. Accordingly, we are seeking to use these declarations as a proxy to evidence the effectiveness of a sponsor in providing the substantive aspects of a sponsor service. We believe taking into account all types of sponsor service cannot act as a measure of the effectiveness of sponsors in the same way. Amending this approach to take into account all sponsor services would mainly act as a measure of how often a sponsor had any dealings with the UKLA. We do not consider this an appropriate measure to use as a basic threshold condition.

With respect to concerns that we are discounting other relevant experience, we consider the remainder of the competency proposals to take such experience into account. For instance, we expect sponsors to cite, amongst other things, 'on-the-job' experience from aborted deals, other sponsor services or corporate finance advisory work to evidence knowledge of some or all of the competency sets identified in LR 8.6.7R(2)(b) (see Q5), depending on the transactions undertaken. By introducing these proposals, we are recognising the importance of this type of experience in establishing a firm's overall competence.

Some respondents raised concerns that aborted transactions would not be taken into account when considering a sponsor's ability to comply with this requirement. As we stated in CP14/02, where an existing sponsor has not submitted a declaration within the last three years, but can demonstrate compliance with our other competence requirements, it may request that we modify or dispense with LR 8.6.7R(1)(b) in accordance with LR 1.2.1R.

Recognising the concerns raised, we have amended the rules to highlight our existing ability to modify listing rules in this context. LR 8.6.7BG makes clear that the FCA may consider dispensing with or modifying the requirement in LR 8.6.7R(1) in accordance with LR 1.2.1R. Given the level of activity of most sponsors in recent years, even during difficult market conditions, we anticipate that we would rarely consider it appropriate to dispense with or modify the provision in this manner. However, in exceptional circumstances, it is possible that we may use this approach in order to consider aborted transactions when determining a

sponsor's ability to comply with this requirement. Such transactions would need to have resulted in a sponsor declaration had the transaction completed and to have been so far advanced as to give us a similar level of comfort as we would have from a sponsor declaration.

As highlighted, some respondents were concerned that the requirement for prior sponsor experience would have an impact on the number of firms on the list of approved sponsors. We do not believe this to be the case for the following reasons:

- As stated in CP14/02 we believe that applying a timeframe of three years for assessing the relevance of sponsor experience takes into account the frequency with which sponsor declarations are required to be submitted and potential changes in market conditions.
- In the last three full calendar years we believe that two to three sponsors a year would have been unable to meet the proposed threshold condition of submitting one sponsor declaration in a three-year period should the current proposals have applied.
- In the same period, we have not rejected any formal application for sponsor approval and have approved five new sponsors (comprising over 10 per cent of approved sponsors). We are also currently speaking to a number of firms about sponsor approvals and continue to receive frequent expressions of interest from potential new sponsors.
- During the last three calendar years, sponsors have submitted more than 800 declarations that would meet this requirement.
- Issuers will still be able to appoint more than one sponsor (please see chapter 4: Joint Sponsors) which will continue to provide sponsors with the same opportunities to submit declarations.

Therefore we do not believe that this threshold condition, when introduced, will have a significant impact on the number or types of firms on the list of approved sponsors.

As stated in CP14/02, we believe our current proposals appropriately balance the need to protect investors and promote market integrity on the one hand and promote effective competition in the interest of consumers. We will continue as proposed and retain the threshold condition subject to the amendments above.

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**Q3: Do you agree with the approach for new applicants as set out in LR 8.6.7AG taking into account the guidance set out in the Procedural Note in Annex 1?**

- 2.6** Most respondents supported our proposal of a 'look through' approach to individuals for new applicants.
- 2.7** A couple of respondents asked us to make it clearer how individual experience would be identified.

- 2.8** One respondent raised concerns that in taking a look through approach to individuals, the objectivity of the requirement is compromised and our consideration of the matter becomes unavoidably subjective.

#### Our response:

CP14/02 recognised that a new applicant may not be able to demonstrate that it has submitted a sponsor declaration within three years of its application. We also acknowledged that existing sponsors may need to recruit to satisfy this requirement. Therefore we proposed a 'look through' approach to the employees of the sponsor, rather than considering the declarations submitted by the sponsor firm in these situations, so we get a similar level of comfort as we would have from a sponsor having submitted a declaration.

We have taken into account one respondent's suggestion that the description of our approach set out in the Procedural Note appended to CP14/02 should be more fully reflected in the rules. So we have changed LR 8.6.7AG to clarify that, in circumstances where the new applicant is unable to satisfy LR 8.6.7R(1)(a), we will look to individuals who have had material involvement in the provision of sponsor services requiring a sponsor declaration to provide the requisite level of comfort. We have made it clearer this approach can apply to existing sponsors who may be looking to recruit to demonstrate compliance with this rule.

In relation to concerns about compromising our objectivity by taking this approach, we note that our current consideration of applicants for sponsor approval is detailed and necessarily involves a degree of subjectivity as we have to be satisfied that an applicant is able to meet our criteria for approval. We take a similar rigorous approach to our supervision of sponsors who have been inactive for a number of years. We are therefore satisfied that a 'look through' approach in these circumstances is focused enough to allow applicants and sponsors to understand the nature of our considerations whilst allowing us to retain our preferred approach to these firms.

#### **Q4: Do you agree with the proposed new guidance in LR 8.7.26AG?**

- 2.9** Most respondents supported this proposal. However, some reiterated concerns with the overall approach to competence resulting in a sponsor no longer being deemed competent should it fail to submit a declaration within three years.
- 2.10** One respondent was concerned that if a sponsor was suspended under LR 8.7.26AG it would not be able to conduct sponsor services requiring a sponsor declaration and would therefore remain suspended.

#### Our response:

The proposed guidance at LR 8.7.26AG sets out the expected approach when an existing sponsor is unable to demonstrate that it has provided a sponsor declaration within the last three years but has begun remedial action, such as recruitment, which is likely to result in the sponsor being able to meet LR 8.6.6R.

However, where it is unlikely that a sponsor will meet these requirements, it may need to consider seeking a cancellation.

This additional guidance therefore recognises that there may be circumstances where a sponsor may only be temporarily unable to comply with LR 8.6.6R and that, in those cases, cancellation and a subsequent new application may be unduly burdensome.

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### Competency sets and competence framework

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- 2.11** Overall, respondents supported our policy intention of ensuring that sponsor competence is clearly articulated to the market. In particular, we received a high level of support for the five 'competency sets'.<sup>4</sup> However, many respondents voiced concerns with our proposed application of a competence framework. We have met with stakeholders to discuss their concerns and, as a result, we have amended our approach, which now requires a sponsor to put in place systems and controls designed to comply with each of the requirements as set out in set out in LR 8.6.7R(2)(b). We believe this amended approach achieves the same policy outcome but in a way which allows sponsors to tailor their approach to compliance in the most cost-effective way for each firm. To reflect these changes we have redrafted the Technical and Procedural Notes included in CP14/02 which now comprise two Technical Notes and are subject to consultation.

**Q5: Do you agree that as part of the assessment of sponsor competence, a sponsor should have to satisfy the five 'competency sets' as set out in proposed LR 8.6.7R(2)?**

- 2.12** We received a high level of support in relation to the proposed competency sets, with respondents agreeing that these were key competencies sponsors should be able to meet and that they were helpful in increasing the transparency of our expectations.
- 2.13** One respondent questioned whether the requirement to understand the responsibilities and obligations of a sponsor set out in LR8 (LR 8.6.7R(2)(b)(iv)) was a separate requirement to the need to demonstrate an understanding of the rules, guidance and ESMA publications directly relevant to sponsor services (LR 8.6.7R(2)(b)(i)).
- 2.14** Some respondents requested clarification as to whether the ability to demonstrate specialist industry sector knowledge (as required by LR 8.6.7 R(2)(b)(v)) was relevant to a sponsor's approval or the services which it was providing.
- 2.15** Comments were also raised in relation to the knowledge elements section of the competence framework set out in the Technical Note included in Annex 1 of CP14/02. These highlighted a general concern that, by summarising the requirements of the listing rules, we were potentially changing some of the obligations of sponsors in LR8.4.
- 2.16** One respondent was concerned that the need to demonstrate an understanding of specialist industry sectors would potentially be inflexible, anti-competitive and create uncertainty should sponsors wish to enter into a new sector.

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<sup>4</sup> LR 8.6.7R(2)(b)

## Our response

We have retained the five competency sets as set out in CP14/02, with some minor drafting changes to LR 8.6.7R(2)(b)(v) and LR 8.6.7R(2)(c) which we explain below.

We continue to believe that the specific 'sponsor facing' responsibilities and obligations (captured by reference to *'the responsibilities and obligations of a sponsor set out in LR8'* in LR 8.6.7R(2)(b)(iv)), as distinct from their 'client facing' responsibilities and obligations, covered by LR 8.6.7R(2)(b)(i), should be emphasised in a separate competency set, recognising the importance of these requirements to a sponsor's overall understanding of its role. In some firms, it is also possible that certain aspects of this competency set may sit with different parts of the firm, such as the legal and compliance team. So we have retained two separate competency sets.

LR 8.6.7R(2)(b)(v) is intended to ensure that sponsors have an understanding of the industry sectors in which their clients operate. It is not intended to create an industry specialism in relation to which a sponsor could apply to restrict or limit their approval to perform sponsor services. We have amended the wording in LR 8.6.7R(2)(b)(v) to make it clear that the requirement relates to the services that the sponsor provides or intends to provide. As highlighted in CP14/02 and discussed in response to Q12 below, we do not intend to consider applying limitations or restrictions on a sponsor's approval beyond the provision of sponsor services to premium listed investment companies.

The intention of this competency set is to ensure that sponsors have access to staff who are knowledgeable about the sectors in which their clients operate. This is particularly relevant where sponsors are required to consider the appropriateness of disclosure in a prospectus or other public document. In considering how they meet these requirements, sponsors may wish to use the expertise from elsewhere within their organisations, ensure relevant training is provided or, in some cases, a sponsor may need to consider how best to enhance existing knowledge within the firm by making use of use of external specialists. Sponsors are not required to maintain expertise in all industry sectors where this does not meet their business needs or where they do not intend to operate in a particular area. For example, if a sponsor does not envisage providing sponsor services to mineral companies, they are not required to retain expertise within that industry sector. We have added additional guidance in relation to this requirement within the Technical Note (see our response to question 15 below).

As noted below, we have amended this Technical Note and in doing so have removed references which could have suggested to some respondents that they may need to revisit current market practice around meeting the requirements of LR 8.4.

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**Q6: Does the proposed approach in LR 8.6.12 (9)R and the Technical Note as set out in Annex 1 provide sufficient flexibility for sponsors?**



- 2.17** Just over half of the respondents to this question disagreed with the proposal which would require a sponsor to adopt an appropriate competence framework, embed it within the sponsor's existing systems and controls and apply it when assessing staff competence. In CP14/02 we set out our expectation that sponsors should keep records of this assessment and, in order to assist sponsors, we drafted and included a suggested competence framework (contained in the proposed Technical Note within Annex 1 of CP14/02) for firms to adapt to their own needs and bear in mind when performing their assessments. We also clarified in the Procedural Note (included within Annex 1 of CP14/02) what practical implications this would have and what changes we expected to make to the existing Annual Notification form.
- 2.18** Those respondents who disagreed suggested that the proposed approach was overly restrictive, burdensome and would have a significant impact on existing sponsors' systems and controls and record keeping. Many argued that our proposal went beyond the current approach of existing sponsor firms who conduct a 'holistic assessment' of their firm's competence by taking into account individuals' overall experience of sponsor transactions, and their collective skills and experience. They also argued that the competence framework, as set out in the Technical Note, required a detailed individual assessment of each person involved in performing sponsor services.

### Our response

Our cost benefit analysis included in CP14/02 recognised that some costs would be incurred by sponsors in order to adopt and embed a competence framework containing the required competency sets but that we expected these costs to be minimal. This was on the basis that sponsors are currently required (by LR 8.6.9A(2)G) to assess competence on an ongoing basis and submit an annual notification (LR 8.7.7R, LR 8.7.7AR) confirming competence, and evidence as to why they remain competent.

In addition, sponsors are required by existing LR 8.6.5 R(1) to be authorised persons or a member of a designated body, and as such they are expected to meet training and competence requirements. In addition, sponsors are already required to keep records of the steps they have taken to comply with ongoing eligibility criteria in LR8.6.6R, including competence (LR 8.6.16AR (4)).

We had intended our proposals to be sufficiently flexible in order to allow sponsors to create an approach which would be complementary to their existing requirements and business model. We did not intend to suggest that sponsors would need to maintain detailed records for each employee documenting their compliance with each element of the framework and requiring significant additional resource.

We also did not intend that each employee would need to meet the competence framework. Rather we anticipated that firms would consider their overall resourcing model and ensure that they were able to demonstrate an understanding of the competency sets by the sponsor function as a whole.

But it is clear that some respondents have interpreted our proposals in a way we did not intend. So we have met with stakeholders to discuss the concerns they raised, and we have amended our approach to achieve the same policy outcome, but allow sponsors to tailor their approach to compliance in the most cost-effective way.

We have removed the concept of a competence framework from our proposal and replaced it with a requirement to retain effective systems and controls which comply with the requirements of LR 8.6.7R(2)(b). Consequently, we have deleted the proposed definition of competence framework, deleted proposed LR 8.6.7CG and amended LR 8.6.12 R(9) so that it no longer refers to the adoption of a competence framework.

In addition, we have redrafted the Technical Note (please see Annex 1) to remove the competence framework concept, including the knowledge elements, and have expanded the description of each competency set to provide more general guidance as to our expectations. In order to assist sponsors we have provided an explanation of the types of skill, knowledge and expertise that we would expect a sponsor to take into account when considering its ability to meet these requirements. We are consulting on this revised Technical Note as part of this consultation. Please see paragraph 2.35 below.

#### **Annual Notification**

As highlighted above, sponsors have a current obligation under LR 8.6.16AR (4) to ensure that they retain records which demonstrate the steps they have taken to comply with their ongoing eligibility requirements under LR 8.6.6R. The responses to the CP suggested that sponsors are unclear on our expectations in this area and that the level of record keeping differs across sponsors. In order to assist sponsors in meeting their obligations on record keeping, we have expanded the current Part A of the Annual Notification form (AN) (please see Annex 2). This will allow sponsors to use the AN, should they so wish, to record their compliance with this obligation. We would expect sponsors to set out on the AN form how they meet each competency set detailing the relevant skills, knowledge and experience within the firm. The new AN will be available on the UKLA website from 1 February 2015, to coincide with the new rules coming into effect, and should be used by sponsors when complying with their obligations under LR 8.7.7R in January 2016.

#### **New Applicant Form**

We have also made similar changes to the New Applicant Form. Please see Annex 2. This new form will be available on the UKLA website from 1 February 2015.

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### **Sufficient number of employees**

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**Q7:** *Do you agree that, as part of the assessment of competence, a sponsor should have a sufficient number of staff who meet as a minimum, the competency sets within LR 8.6.7R 2 (b)?*

- 2.19** Most respondents agreed with this proposal. One respondent agreed with the proposal but stated that any assessment should be carried out at a firm level rather than an individual level, and that sponsors should retain discretion as to how they satisfy themselves that they can demonstrate the necessary competencies.

### Our response

We are satisfied that the proposed drafting of LR 8.6.7R(2)(b) means that an assessment of a sponsor's ability to demonstrate an understanding of these competency sets would be carried out at a firm-wide level rather than at an individual level. We will therefore proceed as proposed.

**Q8: *Do you agree that the adequacy of resources obligation (LR 8.6.7R(2)(a) and (b)) should apply on an ongoing basis?***

- 2.20** This proposal was well supported. Some respondents suggested there should be a degree of flexibility in the assessment and that factors such as nature, scale and complexity of its business should be taken into account.

### Our response

We are satisfied that these factors are set out in LR 8.6.7BG which will apply to any consideration of the ability of a sponsor or new applicant to demonstrate compliance with LR8.6.7R(2).

So we will proceed as proposed.

## Systems and controls

**Q9: *Do you agree with our overall proposal to make the systems and controls provision in LR 8.6.12G into a Rule (LR 8.6.12R)?***

- 2.21** Overall this proposal was well supported. A small number of respondents disagreed and requested that the FCA retain some flexibility by retaining the substantive elements of LR 8.6.12G as guidance and/or adopting a rule with an alternative standard of care to that in LR 8.6.5R(3).

### Our response

We continue to believe that LR 8.6.12G should be made into a rule, given the importance of the specific systems and controls identified within this proposed rule to the effective performance of sponsor services and the supervision of sponsors.

In light of the feedback received on our proposal we have amended the rules applying to sponsors' systems and controls (LR 8.6.5R(3) and LR 8.6.12R) so that they establish an appropriate and consistent standard of care. This reflects the change of status from guidance to a rule. We have also made some non-substantive drafting amendments to LR 8.6.12R.

To ensure that all requirements applicable to sponsors' systems and controls are captured within one rule, we have also included in LR 8.6.12R(10) a cross reference to existing rules on record management in LR 8.6.16AR.

**Q10: Do you agree that the additional provisions (LR 8.6.12R(1A) and LR 8.6.12R(9)) to LR 8.6.12R will ensure that a sponsor assesses staff against an adopted competence framework?**

- 2.22** As highlighted in Q6, respondents raised a number of comments in relation to the competence framework and the impact the proposal may have on sponsors' compliance functions.
- 2.23** In addition, some respondents questioned whether the proposed amendment to LR 8.6.12R(1A) added anything to the new requirements for competence and existing requirements for systems and controls.

#### Our response

As noted in response to Q6 above, we have removed the concept of a competence framework from LR8. In making this change, we have amended LR 8.6.12R(9) so that sponsors are required to put in place systems and controls for compliance with each of the requirements in LR 8.6.7R(2)(b).

Our proposals on sponsor competence set out in CP14/02 articulated a required level of understanding of, amongst other things, the rules applying to sponsors by employees carrying out sponsor services. We therefore continue to believe the introduction of LR 8.6.12R(1A) is important as it also requires individuals with management responsibility for the sponsor function to understand and consider the importance of the sponsor regime.

#### Key contacts

**Q11: Do you agree with our proposals for key contacts as set out in LR 8.6.7(2)(c), LR 8.6.7 DG, LR 8.6.19R and LR 8.6.20G?**

- 2.24** Most respondents agreed with our proposals in relation to key contacts but questioned whether all communications with the UKLA would have to be conducted through a key contact. Some suggested that a sponsor should be able to appoint more than one key contact on a single transaction. Others questioned whether these requirements effectively re-introduced the suitably experienced employee (SEE) regime.
- 2.25** Some respondents suggested that the requirements in LR 8.6.19R(2) could be met on a collective basis, with another suggesting that too much emphasis had been placed on understanding the UKLA procedures and processes. One respondent said the requirements set out in LR 8.6.19R(2)(d) to (f) should be amended so it was clear that the knowledge expected is relevant to the particular sponsor service being performed. Some respondents also believed they should be able to nominate key contacts based on their own criteria rather than ones prescribed in the rules.

- 2.26** Requiring a key contact to be available between the hours of 7am and 6pm was raised as a concern by a number of respondents, particularly in light of leave requirements due to holidays or sickness.
- 2.27** Some asked whether the need for key contacts was an ongoing or transaction specific requirement.

#### Our response:

As highlighted in paragraph 4.43 of CP14/02, in developing the proposals in this area we have been mindful of the issues encountered by sponsors and the FCA with earlier approaches to competence, such the 'SEE regime,' and have sought to ensure that the proposals are firm-based. In particular, under these proposals we will not 'approve' individuals, and individuals will not have to 'claim' transactions. These were key characteristics of the SEE regime. In our view, the proposed approach is less prescriptive, striking the right balance between a firm-wide assessment of competence and the need to establish an appropriate way in which sponsors can provide us with assurances on which we can rely.

We do not expect that all communications with the FCA and a sponsor will have to be made through a key contact. We expect a key contact will communicate with us when we are discussing technical or material matters in connection with the provision of a sponsor service. Further guidance on the practical implications of communicating with the UKLA is set out in the draft Technical Note (see Annex 1).

We would expect a sponsor to assess, on an ongoing basis, how many key contacts it requires relative to its business model and pipeline of work. Practically, this is likely to be reviewed annually or in the event of staff changes. However, in relation to a live sponsor service we will require the sponsor to allocate only one key contact to that service. The proposals in relation to the competency sets recognise that a sponsor will need to draw on other experience within the firm during the course of the sponsor service. Therefore, we anticipate key contacts involving other colleagues where necessary. However, as we will require the key contact to have the authority to make representations for and on behalf of the sponsor, we believe it is important that we are able to place reliance on, and ensure continuity by communicating with, one named key contact.

In CP14/02, we proposed that a key contact would have to be competent in three specified competency sets:

- possessing technical knowledge of the rules, guidance and ESMA publications directly relevant to sponsor services
- being proficient in the procedural requirements and processes of the FCA and
- understanding the responsibilities and obligations of a sponsor set out in LR8

We have removed the requirement for a key contact to be proficient in FCA procedural requirements and processes, recognising that this knowledge may

sit with other members of the team providing the sponsor service. We have also amended our proposals in LR 8.6.19R(d) and (f) so it is clear that the competence requirements relate to the sponsor service being provided.

As we set out in paragraph 4.36 of CP14/02, we have noticed a general decline in the quality of our interactions with sponsors and we continue to believe it is important to set out our expectations around key contacts given the reliance that we place on sponsor assurances. While we recognise that some sponsors already follow their own criteria for selecting key individuals on a sponsor services, we believe it is important that all sponsors are meeting a consistent standard. Of course, sponsors may wish to continue to add their own requirements above those set out in LR 8.6.19R.

The requirement for a contact to be available between the hours of 7am and 6pm has been in the Handbook for a number of years. We need a contact name for this period so we can address any issues which arise concerning a listed issuer e.g. suspension and disclosure requests. Where a key contact is absent, due to illness or holidays etc., we would expect the sponsor to provide details of an alternative key contact.

As stated in CP14/02, and as we set out in LR 8.6.7DG, to address key person risk, we expect sponsors to have at least two employees that are able to meet the requirements for key contacts. We expect a sponsor to ensure that it is appropriately staffed before agreeing to carry out a sponsor service. So sponsors will need to consider their ability to meet the requirements for key contacts on an ongoing basis as well as on a transactional basis.

We have also amended LR 8.6.19R(2) so that it is clear, particularly in the context of joint sponsor arrangements, that each sponsor is responsible for providing details of its own key contact. In addition, in LR 8.6.20G we have removed the reference to the competence framework.

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### Limitation/restriction on approval

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***Q12: Do you agree with the FCA's proposal to consider applications for sponsor approval for the provision of sponsor services to premium listed investment companies?***

- 2.28** Most respondents to this question agreed with the proposal, with two respondents suggesting that the FCA should also consider sub-sets of the premium commercial segment i.e. extractive companies, property companies etc.
- 2.29** Two respondents questioned why the underlying work between premium listed commercial and investment companies would be so different.
- 2.30** One respondent believed that effective competition in the market for sponsor services would be better promoted by the FCA if limitation or restrictions to sponsor approvals were also permitted in respect of specified geographical markets.

- 2.31** One respondent disagreed with the proposal, suggesting that the proposal would lead to greater sponsor specialism and complexity.

**Our response:**

Premium listed commercial companies and premium listed investment companies will continue to have different requirements of sponsors in certain competencies. We would expect the work underpinning the sponsor declaration to differ materially in certain aspects, such as considerations for disclosure and the performance of the working capital exercise.

At this time, we do not believe that approvals granted by the FCA to sponsors should seek to reflect specialised industrial sectors beyond the distinction made on the premium segment of the Official List. We believe that the requirements in LR 8.6.7CG should place an obligation on sponsors to ensure that they are only advising clients who are operating in sectors on which they are sufficiently knowledgeable in order to provide sponsor services with due care and skill.

We continue to believe that our proposal will promote competition by allowing specialist applicants to apply and develop expertise. We see no reason why we should limit or restrict approvals specifically to a geographical area, as the location of the issuer does not require a sponsor to demonstrate skills, knowledge or expertise beyond those already captured in the 'competency sets' in LR8.6.7R(2)(b).

We will therefore continue as proposed.

**Q13: Do you agree with the proposal to assess competence to provide sponsor services to premium listed investment companies against a different competency framework?**

- 2.32** A significant number of respondents disagreed with this proposal, referring back to the concerns they raised in relation to the competence framework (see Q6).
- 2.33** A number of respondents commented on the fact that the competence framework for premium listed investment companies seemed to require additional expertise in addition to that required for premium listed commercial companies rather than a reduction in the number of requirements, which one might expect.

**Our response:**

As noted above in response to Q6, we will remove the concept of a competence framework from our proposal. Consequently we have removed the competence framework aspects from the Technical Note (see Annex 1) and have provided a clear description of each competency set. We would expect a new applicant applying for an approval which is restricted to providing sponsor services to premium listed investment companies to meet the four competency sets as discussed in the Technical Note.

Work carried out by sponsors providing declarations can differ significantly between those advising premium listed commercial companies and those advising premium listed investment companies. For example, the work performed by a sponsor in order to satisfy itself that the directors have a reasonable basis on which to make the working capital statement (LR 8.4.2R(5)) will differ considerably between commercial and investment companies. This is because the latter will often present a more simplistic working capital model requiring a different degree of analysis or challenge.

### Proposed Procedural and Technical Notes

**Q14:** *Do you agree that the proposed Technical Note provides sufficient guidance to support the proposed amendments to LR 8.6R?*

- 2.34** As the majority of responses to this question are also set out in our responses to Q6 and Q12 we would refer you to the comments made above.

#### Our response:

As noted above we have removed the concept of a competence framework from our proposal. We have redrafted this Technical Note (see Annex 1) to remove the competence framework; we now provide more general guidance as to what our expectations are in terms of the identified competency sets. To help sponsors, the Technical Note explains the type of skills, knowledge and expertise that we would expect a sponsor to consider when assessing its ability to meet the requirement in LR 8.6.5R(2).

### Consultation question on Technical Note 'Sponsors: Guidance on the competence requirements set out under LR 8.6.7R(2)(b)'

- 2.35** As noted above in our response to Q14, we are consulting on a revised Technical Note 'Sponsors: Guidance on the competence requirements set out under LR 8.6.7R(2)(b)'. Please see Annex 1.

**Q1:** **Do you have any comments on the Technical Note 'Sponsors: Guidance on competence requirements set out under LR 8.6.7R (2)'?**

**Q15:** *Do you agree that the proposed Procedural Note provides sufficient guidance to support the proposed amendments to LR 8.6R?*

- 2.36** As highlighted in paragraph 2.10 above, a significant number of respondents raised concerns with our proposed Procedural Note primarily because they disagreed with the need for a competence framework.



### Our response

As noted above, we are removing the concept of the competence framework from our proposals. We have therefore redrafted the Technical Note, retaining areas of guidance contained in the original Procedural Note where we consider appropriate (see Annex 1). This note is subject to consultation. We also intend to add additional text to our Annual Notification form and New Applicant Form to help sponsors meet their record keeping obligations (please see Q6 above).

### Consultation question on Technical Note 'Sponsors: Practical implications of competence requirements for sponsors and applicants'

- 2.37** As noted in our response to Q15 above, we have redrafted the Procedural Note. We are now referring to it as Technical Note 'Sponsors: Practical implications of competence requirements for sponsors and applicants'. Please see Annex 1.

**Q2: Do you agree that the Technical Note 'Sponsors: Practical implications of competence requirements for sponsors and applicants', as set out in Annex 1, provides sufficient guidance to support the amendments made to LR 8.6R?**

### Other amendments

**Q16: Do you agree with the proposed amendment to the definition of a class 1 circular?**

- 2.38** All respondents to this question agreed with our proposal.

### Our response

We will continue as proposed.

**Q17: Do you agree with the proposed change to LR 5.6.15G (4) so that it refers to a 'declaration' rather than a 'statement'?**

- 2.39** All respondents to this question agreed with our proposal.

### Our response

We will continue as proposed.

**Q18:** *Do you have any comments about the minor changes to LR 8.1.1R, LR 8.1.1AR, LR 8.6.12R, LR 8.7.1AR and LR 8.7.8R?*

**2.40** The majority of respondents supported our proposals here.

#### Our response

We will continue as proposed. Please see our responses to Q9 and Q10 where we set out the other amendments we have made to LR 8.6.12R.

**Q19:** *Do you agree with the proposed changes to LR11 Annex 1 8(1)(b) and LR 8.2.1R(15)?*

**2.41** All respondents to this question agreed with our proposal.

#### Our response

We will continue as proposed.

**Q20:** *Do you agree with the proposal to include the LR 10.5.4R supplementary circular within LR 8.2.1R(2) and LR 8.4.11R?*

**2.42** All respondents to this question agreed with our proposal.

#### Our response

Since publishing CP14/02, we have consulted on narrowing the scope of the UKLA's vetting of circulars. As a result, we have decided not to make any amendments to these rules at this time. We will consider the responses to CP14/18: Quarterly Consultation No.6<sup>5</sup> (published on 5 September 2014) in conjunction with those received in response to this question, before proposing any amendments in relation to supplementary circulars.

**Q21:** *Do you have any comments about the minor changes we have proposed in relation to the above rules?*

**2.43** Most respondents supported the minor changes that we proposed.

#### Our response:

We will continue as proposed.

<sup>5</sup> [www.fca.org.uk/news/cp14-18-quarterly-consultation-no6](http://www.fca.org.uk/news/cp14-18-quarterly-consultation-no6)

**Q22: Do you agree with the proposed amendments to LR 8.6.12R(6) and (7)?**

- 2.44** The vast majority of respondents agreed with the proposed amendments to LR 8.6.12R (6) and (7). One respondent suggested that these requirements should refer to 'sponsor services' rather than 'each sponsor service' as proposed in order to avoid having completely separate systems and controls for each type of service.

**Our response**

We believe it is clear from the rule as drafted that the requirements apply to the provision of all sponsor services. We therefore intend to continue as proposed.

**Q23: Do you agree with the proposed amendment to LR 8.7.16R and the deletion of LR 8.7.17R and LR 8.7.18R?**

- 2.45** The majority of respondents agreed with this proposal. Two respondents suggested that, although such provisions had not been used to date, there may be circumstances where a sponsor might want to delegate, e.g. during busy periods where it does not have sufficient number of competent employees. Two respondents noted that LR 8.3.13G (Principles for sponsors: acting for another sponsor) should also be deleted.

**Our response**

As noted in CP14/02, since these rules took effect, we have not received any notifications from sponsors advising that another sponsor is performing functions on its behalf as required by LR 8.7.18R or otherwise come across the use of agents by sponsors. Our proposal to remove the delegation rules was well supported.

We would not expect a competent sponsor to rely on these delegation provisions to meet a shortfall in competent staff. We would expect a competent sponsor to assess its staffing requirements against its pipeline work to ensure that it has sufficient competent staff as required by LR 8.6.7R(2).

We will continue as proposed, by amending LR 8.7.16R and deleting LR 8.7.17R and LR 8.7.18R.

We have considered the feedback from respondents that LR 8.3.13G (Principles for sponsors: acting for another sponsor) should also be deleted as a result of our stated policy intention to delete the delegation provisions. We agree and regard deleting LR 8.3.13G (Principles for sponsors: acting for another sponsor) to be a consequential amendment arising from the policy consulted on in CP14/2. We will therefore delete LR 8.3.13G. We have also made a minor drafting amendment to the heading above LR 8.7.16R so that it more appropriately reflects the revised content of LR 8.7.16R.

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### Joint sponsors

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- 2.46** In CP14/02, we raised four open questions that sought views on the use of joint sponsors. Please see Chapter 4 for the feedback on questions 24 to 27 on joint sponsors and our consultation on proposed changes to the Listing Rules regarding joint sponsors.

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### 28 day circular

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**Q28:** *Do you agree with the proposed amendment to LR 13.4.3R which will remove the obligation for premium listed companies to prepare a 28-day circular?*

- 2.47** The vast majority of respondents agreed with the proposal to remove this obligation.

#### Our response

We will therefore continue as proposed.

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### Prospectus accuracy

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**Q29:** *Do you agree with the proposed new PR 3.1.2AR and PR 3.1.2BR which place explicit obligations on an applicant to submit a compliant and factually accurate prospectus?*

- 2.48** Most respondents agreed with our proposal. One respondent was concerned about the potential wider implications for the civil liability regime that might arise from the proposed introduction of a strict liability test within the Prospectus Rules, and suggested that there should be a wider review and consultation before making this change.

#### Our response

We do not believe that our proposed change would in fact have any significant implications for the existing civil liability regime as statutory private rights of action do not apply to breaches of Part VI rules, by virtue of section 138D FSMA. However, we have decided that moving to a 'reasonable care' standard would be consistent with that adopted elsewhere in the Prospectus Regulation and have amended the proposed draft PR 3.1.2AR accordingly so it is consistent with these and the negligence test applied at PR 3.1.2BR.

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## CBA

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### **Q30: Do you have any comments on the CBA?**

- 2.49** Most comments related to concerns around costs of implementing a competence framework. As discussed in Q6 above, we have amended our proposals to take this into account. Two respondents requested more analysis on how the current sponsor market place might be impacted by the changes proposed and some raised concerns around the impact of our proposals would have on competition.

#### **Our response**

Please see our response to Q6, where we have set out further analysis.

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## 3. Sponsor conflicts

### Introduction

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- 3.1** As we set out in our original consultation (CP14/02) on sponsor competence, we see maintaining the effectiveness of the sponsor regime as fundamental to the integrity of the premium listing regime overall. The super-equivalent requirements of the premium listing regime are strongly supported by the market as they enhance investor confidence and make the market attractive to issuers. The action we are taking to enhance sponsor competence, set out in chapter 2 of this paper, therefore sits alongside the changes we made in PS14/8 to enhance the overall effectiveness of the Listing Regime.
- 3.2** Beyond these enhancements to the sponsor regime, it has become evident, during discussions with stakeholders, that a particular focus of interest for the industry is our current rules and guidance on sponsor conflicts of interest. These discussions suggest a diversity of views about the effectiveness of the sponsor conflicts regime, and whether this regime as a whole appropriately protects the interests of investors as consumers. We are therefore taking this opportunity to set out some of the issues raised with us and to invite views from as wide a range of stakeholders as possible on whether the current rules and guidance on sponsor conflicts are appropriate and effective, and if there are any changes to these that could be considered.

### Stakeholders' views on sponsor conflicts

- 3.3** The sponsor conflicts regime is based on the premise that sponsors must seek to identify and manage conflicts of interest that could adversely impact their ability to carry out their functions under LR8. We require sponsors to have in place systems and controls to identify and manage conflicts of interest. In identifying conflicts of interest it also asks sponsors to take into account circumstances that could *'create a perception in the market that a sponsor may not be able to perform its functions properly'* as well as those that could *'compromise the ability of a sponsor to fulfil its obligations to the FCA in relation to the provision of a sponsor'*.
- 3.4** Some stakeholders have expressed concern about the fees and commissions earned by the sponsor banks in their non-sponsor roles (for example, as underwriter) and the fact that the sponsor work-stream is, by comparison, largely unpaid or performed for a *de minimis* amount. In their view, this discrepancy in fees creates a conflict of interest and calls into question the ability of the sponsor to carry out its regulatory duties owed to the FCA. They are also concerned about the effect that the long-standing relationships between sponsor banks and certain issuers may have on the ability of the bank to act independently. Other stakeholders value the long-standing relationships with the sponsor banks and consider that it assists in executing a transaction in a timely manner with less risk of a leak of the transaction details by virtue of the reduced number of advisors. They also point to the existence of synergies with non-sponsor services offered by the banks, such as underwriting and lending, which lead to cost and time savings for issuers.

### Background

- 3.5** As background to this, it is important to understand the legal framework within which the sponsor regime operates. Under the FCA's overarching strategic objective of ensuring markets function well we have three operational objectives. These are: to secure an appropriate degree of protection for consumers, to protect and enhance the integrity of the UK financial system and to promote effective competition in the interests of consumers.
- 3.6** This means we need to ensure that in making any rules or guidance we advance our statutory objectives and take into account the multiple and potentially competing needs of different stakeholders. In relation to consumer protection, both investors and issuers are consumers of sponsor services. While conflicts of interest can clearly undermine investor confidence, we also need to consider the potential impact of changes to the sponsor conflicts regime on issuers, for example, if we decided that integrated banks should no longer act as sponsor at the same time as providing other services. We would also see ourselves as an important stakeholder in the sponsor regime to the extent that we rely on assurances given to us by the sponsors.
- 3.7** In relation to market integrity, we consider that conflicts of interest can adversely affect not only the ability of a sponsor to carry out its functions but also wider market confidence in the sponsor regime and thus the premium listing regime as a whole.
- 3.8** Finally in relation to our competition objective, we also need to assess the potential impact of changes to the regime on the structure of the market, and the availability of sponsors to meet the needs of all relevant consumers.
- 3.9** Against this background, we would welcome the views of market participants and other stakeholders on the broad issue of sponsor conflicts: whether the current rules and guidance remain fit for purpose or whether there are any specific enhancements to our rules (bearing in mind the legal framework set out above) that may be desirable. For example, consideration could be given to:
- Requiring sponsors/integrated banks to disclose their transaction fees. The Panel on Takeovers on Mergers has fairly recently introduced an equivalent requirement and we are aware of a view that such information could increase confidence in the integrity of the sponsor regime. We note the prospectus regime, which is maximum harmonising, already has a requirement for disclosure of 'aggregate fees' and material contracts. However, we would be interested in hearing whether disclosing fees could help to promote the integrity of the sponsor regime and the methods by which we could achieve this. We are also aware that one of our objectives is to promote competition, and we are also subject to a competition duty. As such, we would need to consider carefully whether requiring such disclosure could be anti-competitive if it meant that issuers and sponsors felt constrained from agreeing fees on a private basis.
  - Requiring sponsors/integrated banks to disclose their relationships with the relevant issuer and their conflicts and how they are being managed; however, similar concerns about how we would introduce such requirements into our rules and whether they would be regarded as unduly onerous or anti-competitive by premium listed issuers would apply here.
  - Enhancing our rules and guidance to provide greater detail on the analysis we expect sponsors to undertake when assessing their ability to act as sponsor, for example using the concept of 'threats and safeguards', an approach used by the accountancy profession to assess conflicts of interest.

- Providing additional guidance on the 'perception test'. We believe the perception test (LR8.3.8G) is a useful test for the FCA since it allows us to intervene in circumstances when, despite a sponsor having in place arrangements to manage a conflict, we believe there is an insurmountable perception of conflict which could be damaging to market confidence in sponsors. We are interested in views on what factors and circumstances we could take into account when seeking to assess whether there is an insurmountable perception of conflict which could be damaging to market confidence in sponsors.

**Q3: What, if any, changes to our rules and guidance do you believe may be necessary or desirable?**



## 4. Joint sponsors

### Introduction

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- 4.1** In CP14/02, we included a discussion on joint sponsors which outlined certain issues or concerns which we had observed with joint sponsor arrangements in practice. We were keen to discuss with market participants the respective merits and disadvantages of joint sponsor appointments, with a view to either no longer permitting such appointments or introducing additional rules or guidance which would allow sponsors to act in a joint capacity without compromising their ability to comply with their obligations.
- 4.2** We received a total of 28 responses to CP14/02 and 75% of respondents expressed views on joint sponsors. We were encouraged by the response to the discussion and believe sponsors and other stakeholders have welcomed the opportunity to discuss joint sponsors. The response to the discussion was overwhelmingly in favour of retaining the joint sponsor regime and, accordingly, we propose to retain it.
- 4.3** To reflect the responses, however, we are now consulting on certain proposed changes to the Rules and Guidance contained in LR8 insofar as they relate to joint sponsors. The proposed changes are for the purpose of ensuring not only that the sponsor regime is fit for purpose but that it advances the FCA's objectives to secure an appropriate degree of protection for consumers, to protect and enhance the integrity of the UK financial system and to promote effective competition in the interests of consumers.
- 4.4** The discussion in Chapter 5 of CP14/02 sets out a number of questions on joint sponsors. Below, we summarise the feedback received and our response including, where relevant, proposed changes to the Rules and Guidance in LR8.

### Feedback on joint sponsor discussion questions and our new joint sponsor proposals

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- 4.5** We set out below the discussion questions that we raised in CP14/02 and the feedback we received. In addition we have highlighted where we are now proposing amendments to the LRs and raised new consultation questions.

**Q24:** *Are you in favour of retaining the joint sponsor regime? Please give reasons for your answer (whether 'yes' or 'no', detailing the main advantages or disadvantages to sponsors, issuers and the market generally.)*

- 4.6** All respondents considered that the joint sponsor regime ought to be retained and respondents cited a number of advantages, including the following, of retaining the ability to appoint joint sponsors:
- having the ability to appoint joint sponsors reflects the reality that, particularly on larger transactions, issuers will retain a number of advisers in joint roles (e.g. in the book runner and underwriter roles)
  - issuers benefit from being able to appoint more than one sponsor on a transaction; it helps them to select the appropriate advisory team as different sponsors may have different and complementary skill sets and expertise (e.g. sector or geographical knowledge and expertise)
  - the joint sponsor regime benefits small or specialist sponsors which otherwise may not be appointed on larger transactions
  - it allows for the sharing of best practice across sponsors to the benefit of the sponsor regime as a whole
  - from a regulatory point of view, since each joint sponsor is equally responsible and liable under LR8, having more than one sponsor arguably provides additional scrutiny and oversight during the performance of a sponsor service, as well as additional regulatory comfort to the FCA, and
  - if the joint sponsor regime was removed, the number of opportunities for firms to act as sponsor would be reduced and, arguably, this could have undesirable consequences. Firstly it could lead to a concentration in the market for sponsor services, potentially resulting in less choice for issuers and higher costs and, secondly, it may make it more difficult for sponsors to meet the competence criteria contained in LR8 thus potentially leading to fewer sponsors on the list of sponsors and less competition in the market.
- 4.7** Given the overwhelming support for the joint sponsor regime, we propose to retain the ability for premium listed issuers or applicants to appoint more than one sponsor to undertake a sponsor service.

***Q25: If you are in favour of retaining the joint sponsor regime, what refinements or amendments would you suggest making to the rules or guidance to improve the regime?***

- 4.8** Responses to this question largely fell into the three areas set out below.

**‘Lead sponsor’ issue**

- 4.9** A significant number of respondents explained that their principal concern with the joint sponsor regime was the desire of firms to only act as ‘lead’ sponsor and that this desire was motivated by the requirement of LR 8.5.3R that only one sponsor has primary responsibility for contact with the FCA during the course of the sponsor service. Given that each sponsor remains fully responsible for complying with the obligations under LR8 pursuant to LR 8.3.14R, some respondents explained that they are reluctant to take on the role where they cannot be the primary contact with the FCA. These respondents therefore urged that LR 8.5.3R be amended so that all joint sponsors could participate directly in discussions and communications with the FCA.

- 4.10** In contrast, a number of buy-side respondents wished to see more clarity on the identity of the 'lead' sponsor on a transaction. In particular, one respondent proposed that one sponsor should formally be appointed as the 'primary sponsor' and that a named individual within that firm should act as the 'lead sponsor' on the transaction, it being suggested that this would bring greater accountability to the role.
- 4.11** To address the principal concern that sponsors wish to be 'lead' sponsor so as to have access to, or 'the relationship with', the FCA, we propose to amend LR8.5.3R so that the requirement for a listed company or applicant to advise the FCA of the sponsor that will take responsibility for contact with the FCA in connection with the sponsor service applies in respect of administrative matters only. By implication, therefore, where non-administrative matters are discussed, all appointed sponsors will be able to participate in calls with the FCA should they consider it appropriate to do so. We recognise that allowing more than one appointed sponsor to participate in calls with the FCA could be more difficult for us to manage than the current system. We are therefore consulting on the proposed Technical Note set out in Annex 3 which contains guidance in relation to communications between the FCA and joint sponsors.
- 4.12** In practice, therefore, where there are joint sponsors, the FCA will communicate as regards administrative matters with only one of the appointed sponsors. We will expect the sponsor which is taking responsibility for contact with the UKLA to be responsible for setting up conference calls and submitting draft documents, comments sheets and other correspondence. We will, in turn, expect to send comments and any other correspondence to that firm. We expect that sponsor to circulate comments sheets and any other correspondence received from the FCA to the other appointed sponsors under arrangements put in place between the joint sponsors under the proposed guidance in LR 8.3.15G (discussed in more detail below under the heading 'Lack of arrangements').
- 4.13** We note the request of buy-side respondents that we strengthen sponsor accountability. However, we do not think it appropriate to introduce a formal concept of 'lead' sponsor and 'junior' sponsor given that the appointment of joint sponsors does not relieve any sponsor of its obligations under LR8 (see LR 8.3.14R). Under the current approach, joint sponsors are equally and severally liable. Introducing a two-tier regime of 'lead' and 'junior' sponsor would potentially be misleading in relation to any apportionment of liability between the sponsors.
- 4.14** We also consider that the introduction of the 'key contact' requirements in LR 8.6.19R is likely to increase a firm's focus on the performance of individual employees identified as key contacts for each firm providing sponsor services, resulting in an increase in the quality of our interactions with sponsors. Further detail on the role of the key contact can be found in paragraphs 2.24 to 2.27 of this paper and the Technical Note 'Sponsors: Practical implications of competence requirements for sponsors and applicants' (Annex 1): this note forms part of this consultation.

**Q4: Do you agree with our proposal to amend LR 8.5.3R so that the requirement for only one sponsor to take responsibility for contact with the FCA in respect of the sponsor service applies in respect of administrative arrangements only?**

**Q5: Do you agree that the proposed Technical Note (as set out in Annex 3) provides sufficient guidance to support the proposed amendments to LR 8.5.3R?**

**Lack of arrangements**

- 4.15** A significant number of respondents suggested that the issues identified in the discussion as being of concern could be addressed through refinements to the current regime, which is at present silent as to how sponsors should conduct themselves in a joint sponsor arrangement. A number of respondents suggested that guidance be inserted to clarify that the FCA expects joint sponsors to co-operate with each other in relation to the provision of a sponsor service, including by establishing such arrangements in relation to the exchange and sharing of relevant information and developments as are appropriate having regard to the nature of the particular sponsor service.
- 4.16** Some respondents suggested that this issue could be dealt by requiring sponsors to use a memorandum of understanding, protocol or agreement to establish terms of engagement, while others said that sponsors were best placed to decide how to manage their relationships and that they should be allowed to do this informally. Some respondents suggested a guidance note to assist issuers on matters they might like to consider in a joint sponsor arrangement.
- 4.17** We think guidance is the most effective way of ensuring that sponsors give due consideration to joint sponsor arrangements. We do not wish to be prescriptive about what the arrangements should comprise, recognising that each sponsor service is different and that such arrangements will be private as between the sponsors and/or between the sponsors and the relevant issuer or applicant. Sponsors, issuers or applicants may choose to use a memorandum of understanding, protocol or other type of agreement to establish the arrangements between them. However, sponsors should be aware that we may review the arrangements and whether or not they have been implemented effectively when we carry out sponsor reviews as part of our ongoing supervision of sponsors.
- 4.18** We are proposing to introduce Handbook guidance in LR 8.3.15G in the following terms:

*'If a listed company or applicant appoints more than one sponsor to provide a sponsor service, the FCA expects the sponsors to co-operate with each other in relation to the sponsor service, including by establishing arrangements for the sharing of information as appropriate having regard to the sponsor service.'*

**Q6: Do you agree with the proposed new guidance in LR 8.3.15G?**

**Issuer's cooperation**

- 4.19** A number of respondents suggested that certain of the issues identified in the discussion paper could be addressed by an amendment to LR8.5.6R, which requires issuers to cooperate with their sponsor by providing all information reasonably requested by the sponsor for the purpose of carrying out the sponsor service, so that issuers must co-operate with each joint sponsor. Our view is that it is implicit in LR 8.5.6R that the reference to 'sponsor' is a reference to each joint sponsor in the context of joint sponsor arrangements and, consequently, we do not consider that it is necessary to extend LR 8.5.6R. Where a sponsor is concerned that an issuer is not co-operating, the sponsor should be mindful of the guidance on 'regulatory conflict' set out at LR8.3.8G (2) (which provides that, *'In identifying conflicts of interest, sponsors should .. take into account circumstances that could ... compromise the ability of a sponsor to fulfil its obligations to the FCA in relation to the provision of a sponsor service.'*) We therefore are not proposing to make any change to LR 8.5.6R.

**Q26:** *If the use of joint sponsors is no longer permitted, do you think the proposals in this consultation paper about the requirement for prior sponsor experience (in the form of having submitted sponsor declarations to the FCA) need to be amended? If 'yes', please explain in what way.*

- 4.20** Most respondents thought that the proposals in CP14/02 in relation to sponsor competence would need to be amended if the appointment of joint sponsors was no longer permitted. Respondents felt that, if joint sponsor arrangements were no longer permitted, there would be a reduction in the number of transactions on which sponsors would be able to act for the purposes of meeting the ongoing competence criteria, and that this would inevitably lead to a reduction in the number of approved sponsors and a consequent concentration in the sponsor community in the most active sponsors.
- 4.21** Given the overwhelming response in favour of retaining current joint sponsor arrangements and the proposals to enhance the regime set out in this paper, we are not proposing to restrict the ability of issuers to appoint joint sponsors. In coming to the conclusion that the joint sponsor regime should be retained, we have taken into consideration the responses to this question.

**Principles for sponsors: joint sponsors**

- 4.22** We also propose some minor drafting amendments to LR8.3.14R (Principles for sponsors: joint sponsors) to make the wording consistent with other provisions in LR8.

**Q7:** **Do you agree with the proposed amendments to LR 8.3.14R?**

**Delegation/agency**

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**Q27:** *Can you identify any need to retain the provisions of LR8.7.16R – 18R and LR8.3.13R relating to delegation of functions? If so, please explain your reasons.*

- 4.23** We refer to our response to Question 23 set out at paragraph 2.45 of this paper.

## 5. List of questions

Please note that the consultation period for Q1 and Q2 will close on 7 November 2014. The consultation period for the remainder of the questions will close on 30 December 2014.

### Sponsor competence Technical Notes

- Q1:** Do you have any comments on the Technical Note “Sponsors: Guidance on competence requirements set out under LR 8.6.7R (2)”?
- Q2:** Do you agree that the Technical Note “Sponsors: Practical implications of competence requirements for sponsors and applicants”, as set out in Annex 1, provides sufficient guidance to support the amendments made to LR 8.6R?

### Sponsor conflicts of interest

- Q3:** What, if any, changes to our rules and guidance do you believe may be necessary or desirable?

### Joint sponsors

- Q4:** Do you agree with our proposal to amend LR8.5.3R so that the requirement for only one sponsor to take responsibility for contact with the FCA in respect of the sponsor service applies in respect of administrative arrangements only?
- Q5:** Do you agree that the proposed Technical Note (as set out in Annex 3) provides sufficient guidance to support the proposed amendments to LR8.5.3R?
- Q6:** Do you agree with the proposed new guidance in LR8.3.15G?
- Q7:** Do you agree with the proposed amendments to LR 8.3.14R?

### CBA

- Q8:** Do you agree with the CBA?

# Annex 1

## Sponsor competence Technical Notes

### Introduction

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The following Technical Notes have been produced as formal FCA guidance to complement on the final rules set out in Appendix 2 to this paper. Amendments to LR8 will come into force on 1 February 2015. We are consulting on both of these notes as part of this CP (see paragraphs 2.35 and 2.37 above). Subject to responses received, we intend to publish these notes in final form in the UKLA Knowledge Base on 1 February 2015. This introductory text does not form part of these notes.

### **Technical Note: Guidance on the competence requirements set out under LR 8.6.7R(2)(b) (TN/71x.1)**

LR 8.6.7R(2)(b) requires a sponsor to have a sufficient number of employees with the skills, knowledge and expertise for it to demonstrate an understanding of specific 'competency sets'. This note is designed to provide sponsors with a description of the types of skills, knowledge and expertise that we expect sponsors to consider when assessing whether they understand each of the 'competency sets'.

### **Technical Note: Practical implications of competence requirements for sponsors and applicants (TN/71x.1)**

This note is designed to answer some of the queries sponsors, or applicants for sponsor approval, may have when considering the practical application of the new provisions. As a result of these changes, we have also amended the Annual Notification form (AN) to assist sponsors in their record keeping obligations in relation to competence (LR 8.6.16AR(4)). These new provisions have also required changes to be made to the Application Form for those seeking approval as sponsor (New Applicant Form). The revised AN is effective as at 1 February 2015 and should be used for all annual notifications submitted to the FCA in January 2016. The revised New Applicant Form should be used for any applications for sponsor approval on or after 1 February 2015.

### **Title: Sponsors: Guidance on the competence requirements set out under LR 8.6.7R(2)(b).**

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Reference: UKLA/TN/7[ ].[ ]

Date: 1 February 2015

Rules: *LR 8.6.7R, LR 8.6.7R(2)(b), LR 8.6.19R(2)(d)&(e)*

LR 8.6.7R sets out the competence criteria for firms wishing to apply to become a sponsor and for existing sponsors to ensure ongoing approval. LR 8.6.7R(2)(b) requires a sponsor to have a sufficient number of employees with the skills, knowledge and expertise necessary for it to understand:

1. the rules, guidance and ESMA publications directly relevant to sponsor services;
2. the procedural requirements and processes of the FCA;
3. the due diligence process required in order to provide sponsor services in accordance with LR 8.3 and LR 8.4;
4. the responsibilities and obligations of a sponsor set out in LR 8; and
5. specialist industry sectors, if relevant to the sponsor services it provides or intends to provide.

We refer to these areas of knowledge as ‘competency sets’ for the purposes of this note. In order to assist sponsors, we have set out below an explanation of the types of skills, knowledge and expertise that we would expect a sponsor to take into account when considering whether it is able to demonstrate an understanding of each competency set. We expect sponsors to take into account training received, experience obtained on sponsor services and other corporate finance experience, both transactional and non-transactional, when seeking to demonstrate compliance with LR 8.6.7R(2)(b).

The following is not intended to be exhaustive; sponsors may wish to consider other matters under each competency set when considering their own business and clients.

Note: This Technical Note sets out a description of our expectations in relation to the competency sets for sponsors offering services to premium listed commercial companies (see Section A); and sponsors who specialise in advising premium listed investment companies (see Section B). Sponsors offering sponsor services to the full range of premium listed companies, will need to consider the most appropriate way to incorporate aspects of both Sections A and B when considering whether they are able to meet the requirements of LR 8.6.7R(2)(b).

### ***Section A - Sponsors - premium listed commercial companies***

#### ***1) Rules, guidance and ESMA publications directly relevant to sponsor services***

We expect sponsors to demonstrate technical knowledge of the regulatory requirements applicable to the provision of sponsor services to a premium listed issuer or an applicant for premium listing. Accordingly, we expect sponsors to be able to demonstrate a working knowledge of the Listing Rules, Prospectus Rules, Disclosure Rules and Transparency Rules as well as any guidance published thereon, including ESMA publications and FCA guidance published in the UKLA Knowledge Base. In particular, we would expect sponsors to have a detailed working knowledge of aspects of these rulebooks which are pertinent to their role, such as the Listing Principles, related party and significant transaction provisions, relevant disclosure requirements set out under PR Annex 3 and the various triggers for and exemptions from publishing a prospectus. To the extent that it is relevant to providing a sponsor service, we will also expect sponsors to have an understanding of the wider UK regulatory framework such as Part VI FSMA, in particular section 75(5). In addition, we would expect sponsors to be aware of market commentary and practice around the application of the relevant rulebooks and guidance set out above.

#### ***2) The procedural requirements and processes of the FCA***

The UKLA operates processes and procedures which are designed to facilitate interactions with sponsors. As such, we expect sponsors to be proficient in those procedures and processes of the UKLA which a sponsor would undertake, such as those relating to document vetting, the Sponsor Service Enquiry Line and the listing application process. Sponsors should also be familiar with the Procedural Notes published within the UKLA Knowledge Base, which are FCA guidance. We also expect sponsors to be aware of the reliance placed by the UKLA on sponsor responses and confirmations provided during these processes.



**3) The due diligence process required in order to provide sponsor services in accordance with LR 8.3 and LR 8.4**

We expect sponsors to understand not only the scope of due diligence required for sponsor services to be conducted in accordance with the Principles for Sponsors in LR 8.3 but also what is expected of sponsors before submitting declarations or confirmations to the FCA.

Sponsors are required to submit declarations to the FCA in the terms set out in LR 8.4: the Listing Rules require sponsors to come to a reasonable opinion on relevant matters having made due and careful enquiry. In providing these declarations, and other services, sponsors must comply with the Principles for Sponsors in LR 8.3, including acting with due care and skill, ensuring directors understand their obligations and identifying and managing potential or perceived conflicts.

We recognise that sponsors will appoint their own advisers and receive comforts from their client and its advisers as part of carrying out due diligence into the issuer and the transaction or matter being considered. In light of this, we would expect sponsors, when considering the declarations required under LR 8.4, to carry out due and careful enquiry by, inter alia:

- ensuring the scope of due diligence and basis of engagement is appropriate;
- reviewing drafts of any reports intended to be addressed to them and challenging any findings therein;
- considering their own knowledge and experience of the issuer and its operating environment and ensuring that conclusions reached are appropriate given the circumstances; and
- considering industry guidance issued by relevant governing bodies.

**4) The responsibilities and obligations of a sponsor set out in LR 8**

LR 8 contains rules and guidance which apply to both sponsors and companies with or seeking, a premium listing. We expect that a sponsor will be aware of its obligations under LR 8 when providing sponsor services. In particular, sponsors should be aware of and consider how principles set out in LR 8.3 apply to the sponsor service being provided, particularly exercising due care and skill.

We also expect sponsors to have a good understanding of their firms' risk appetite when agreeing to provide sponsor services to a premium listed issuer, or an applicant for premium listing, an understanding of what constitutes a sponsor service, and the application of LR 8 to the service.

**5) Specialist industry sectors, if relevant to the sponsor services it provides or intends to provide**

In order to advise clients on appropriate disclosure or structures that meet our eligibility requirements for premium listing, or when carrying out a transaction for premium listed companies, we consider it necessary for a sponsor to have an understanding of the industry sector in which their client operates. This competency set seeks to ensure that sponsors are aware of the specific guidance or rules for specialist industry sectors, the particular challenges or risks that a sector may face and the impact this may have on eligibility, document disclosure and/or continuing obligations of their client.

Specialist sectors may include:

- property companies
- start-ups
- shipping companies
- mineral companies
- financial institutions and other authorised firms, and
- scientific research-based companies

## **Section B - Sponsors - premium listed investment companies**

### **1) Rules, guidance and ESMA publications directly relevant to sponsor services**

We expect sponsors to demonstrate technical knowledge of the regulatory requirements applicable to the provision of sponsor services to a premium listed investment company or an applicant for premium listing under LR 15 or LR 16. Accordingly, we expect sponsors to be able to demonstrate a working knowledge of the Listing Rules, Prospectus Rules, Disclosure Rules and Transparency Rules as well as any guidance published thereon, including ESMA publications and FCA guidance published within the UKLA Knowledge Base. In particular we would expect sponsors to have a detailed working knowledge of aspects of these rulebooks which are pertinent to their role, such as the Listing Principles, related party and significant transaction provisions, LR 15, LR 16, relevant disclosure requirements set out under PR Appendix 3 (in particular Annex XV) and the various triggers for and exemptions from publishing a prospectus.

We will also expect sponsors to have an understanding of the specific disclosure requirements relevant to premium listed investment companies and to understand the challenges faced by these companies in considering eligibility and disclosure requirements, in particular in relation to areas such as investment policies, diversification and spread of risk.

To the extent that it is relevant to providing a sponsor service, we will also expect sponsors to have an understanding of the wider UK regulatory framework such as Part VI FSMA in particular section S75(5). In addition, we would expect sponsors to be aware of market commentary and practice around the application of the relevant rulebooks and guidance set out above.

### **2) The procedural requirements and processes of the FCA**

The UKLA operates processes and procedures which are designed to facilitate interactions with sponsors. As such, we expect sponsors to be proficient in those procedures and processes of the UKLA which a sponsor would undertake, such as those relating to document vetting, the Sponsor Service Enquiry Line and the listing application process. Sponsors should also be familiar with the Procedural Notes published within the UKLA Knowledge Base, which are FCA guidance. We also expect sponsors to be aware of the reliance placed by the UKLA on sponsor responses and confirmations provided during these processes.

### **3) The due diligence process required in order to provide sponsor services in accordance with LR 8.3 and LR 8.4**

We expect sponsors to understand not only the scope of due diligence required for sponsor services to be conducted in accordance with the Principles for Sponsors in LR8.3 but also what is expected of sponsors before submitting declarations or confirmations to the FCA.

Sponsors are required to submit declarations to the FCA in the terms set out in LR 8.4: the Listing Rules require sponsors to come to a reasonable opinion on relevant matters having made due and careful enquiry. In providing these declarations, and other services, sponsors must comply with the Principles for Sponsors in LR 8.3, including acting with due care and skill, ensuring directors understand their obligations and identifying and managing potential or perceived conflicts.

We recognise that sponsors will appoint their own advisers and receive comforts from their client and its advisers as part of carrying out due diligence into the issuer and the transaction or matter being considered. In light of this, we would expect sponsors, when considering the declarations required under LR 8.4, to carry out due and careful enquiry by, inter alia:

- ensuring the scope of due diligence and basis of engagement is appropriate;
- reviewing drafts of any reports intended to be addressed to them and challenging any findings therein;
- considering their own knowledge and experience of the issuer and its operating environment ensuring that conclusions reached are appropriate given the circumstances; and
- considering industry guidance issued by relevant governing bodies.

#### **4) The responsibilities and obligations of a sponsor set out in LR 8**

LR 8 contains rules and guidance which apply to both sponsors and companies with, or seeking, a premium listing. We expect that a sponsor will be aware of its obligations under LR 8 when providing sponsor services. In particular, sponsors should be aware of and consider how principles set out in LR 8.3 apply to the relevant service being provided, particularly exercising due care and skill.

We also expect sponsors to have a good understanding of their firms' risk appetite when agreeing to provide sponsor services to a premium listed issuer, or an applicant for premium listing, an understanding of what constitutes a sponsor service, and the application of LR 8 to the service.

#### **Title: Sponsors: Practical implications of competence requirements for sponsors and applicants**

Reference: UKLA/TN/7[ ].[ ]

Date: 1 February 2015

Rules: LR 8.6.5R; LR 8.6.5CG; LR 8.6.6R; LR 8.6.7R; LR 8.6.7AG; LR 8.6.7BG; LR 8.6.7CG; LR 8.6.7DG G; LR 8.6.9BG; LR 8.6.12R; LR 8.6.13G; LR 8.6.19R; LR 8.6.20G; LR 8.7.7R; LR 8.7.7A.

#### **Competence requirements**

The requirement for a sponsor to be competent is a continuing obligation (LR 8.6.6R). The competence requirements for sponsors and applicants for sponsor approval, which can be found in LR 8.6.7R - LR 8.6.9BG, require a sponsor or applicant:

- to have submitted a sponsor declaration (as defined) to the FCA within the last three years (LR 8.6.7R(1));

- to have a sufficient number of skilled employees who, inter alia, understand what we have referred to in this note as 'competency sets' (as set out in LR 8.6.7R(2)(b)), being identified areas of skills, knowledge and expertise that we expect of sponsors; and
- to retain employees who are able to act as 'key contacts' when making submissions to the UKLA Department (requirements for key contacts are set out in LR 8.6.19R which is summarised below).

A sponsor's ability to comply with these requirements will be considered in light of the sponsor's current and proposed business and operations (LR 8.6.7CG).

LR 8.6.12R(9) requires the sponsor to have effective systems and controls in place to comply with these competency sets. LR 8.6.16AR(4) requires a sponsor to record the steps they have taken to comply with its obligations under LR 8.6.6R which will include its obligations to demonstrate competence to perform sponsor services.

LR 8.6.19R requires a sponsor to ensure that, when it is performing a sponsor service which requires the submission of a document or contact with the FCA, it provides the FCA with the name of a 'key contact'. LR 8.6.19R(2) requires a sponsor to ensure that key contacts meet certain criteria including whether they:

- are sufficiently knowledgeable about their client and the matter the subject of the sponsor service;
- can demonstrate an understanding of skills, knowledge and expertise specified in this rule (essentially by reference to two specified competency sets); and
- are authorised to make representations to the FCA for and on behalf of the sponsor.

LR 8.6.20G sets out our expectation that a key contact will have experience of carrying out sponsor services in the last three years.

### ***Considerations relating to sponsor competence***

We have set out below a number of questions and answers, some of which will only be relevant to new applicants, and some of which will also be applicable to existing sponsors. This Note is intended to assist employees within sponsors or applicants who are required to consider whether the firm meets, or continues to meet, the rules requiring sponsors to be competent to provide sponsor services at all times. This Guidance will be particularly relevant to existing sponsors when completing their Annual Notification form (AN) and to new applicants when completing an application form (New Applicant Form).

#### **(a) We haven't submitted a sponsor declaration of the type specified in LR 8.6.7R(1) in almost three years. Can we rely on other declarations? What action should we take?**

We require a sponsor to have submitted a specified sponsor declaration, namely one which covers confirmations concerning compliance with LRs and DTRs, the effect of the transaction on the issuer and the sufficiency of working capital. Therefore a declaration given on an announcement of a reverse takeover under LR 8.4.17R or in relation to LR 8.2.1R(5) (sponsor appointment where there has been, or may be, a breach of the LRs or DTRs) will not be relevant for satisfying this requirement and we have drafted the definition of 'sponsor declaration' accordingly.

It is likely that the Sponsor Supervision Team will be communicating with sponsors whom they have been able to identify as struggling to satisfy this requirement. However, we expect sponsors to build into their procedures an internal notification requirement which alerts

management to the fact that the firm has not conducted a sponsor transaction resulting in the production of a relevant sponsor declaration for a period of time. Sponsors should be mindful that they remain under an obligation (LR 8.7.8R(1)(a)) to notify us of any possible breach of LR 8.6.5R as soon as possible. In practice, we expect sponsors to contact us well before they face a potential breach of their obligations under LR 8.6.7R(1).

In most cases, sponsors will seek to recruit in order to satisfy this requirement. For guidance on how our provisions for 'looking through' to individuals apply to these situations, please see question (i) below in relation to the application of LR 8.6.7AG for new applicants and existing sponsors.

**(b) When applying to be a sponsor, does the UKLA Department require us to explain how we are able to meet the requirements of LR 8.6.7R(2)? What information do you require on staffing?**

As a new applicant, we would expect to review the full staffing proposition of the business that is to provide sponsor services. We require an applicant to make a submission setting out how it considers itself able to meet the requirements of LR 8.6.7R(2) and how it is able to demonstrate that the sponsor function meets our requirements in relation to all the identified competency sets. Persons considering applying for approval as sponsor can find the relevant form on our website at the following: <http://www.fca.org.uk/firms/markets/ukla/sponsor-firms/sponsors/applying>. We expect, as part of that submission, to be provided with, inter alia:

- a list of staff providing sponsor services
- an organogram of the sponsor function
- an analysis of how the proposed sponsor function meets the requirement of LR 8.6.7R(2)
- an explanation of how transactions are expected to be staffed
- what reporting lines and control functions are put in place to ensure compliance with LR 8.6.12R (taking into account LR 8.6.7CG), and
- identification of the employees able to meet the key contact requirements in LR 8.6.19R together with an analysis of how they meet those requirements.

**(c) What should we take into account when considering LR 8.6.7R(2)(a)?**

LR 8.6.R(2)(a) requires a sponsor, or a person applying for approval to act as sponsor, to have a sufficient number of employees with the skills, knowledge and expertise necessary for it to provide *sponsor services* in accordance with LR 8.3. The Principles for Sponsors in LR 8.3 (Principles) set out what we see as the role of a sponsor and four key principles which should apply to that role. These are:

- carrying out sponsor services with due care and skill;
- ascertaining whether directors understand their obligations under the LRs and DTRs;
- being open and co-operative with the FCA, acting with honesty and integrity and raising any failure by its client or itself to comply with the LRs and DTRs; and
- identifying and managing conflicts of interest affecting a sponsor's ability to provide sponsor services.

We expect a sponsor to have considered the scope of the role and the responsibilities that sponsors are subject to when seeking to fulfil that role in accordance with these Principles.

When considering whether a sponsor has an appropriate number of skilled employees for the purposes of LR 8.6.7R(2)(a), we expect a sponsor or person applying for sponsor approval to consider whether, *inter alia*:

- the number of staff within the organisation will be able to staff the expected pipeline of transactions without compromising the performance of those services to the requisite standard of professional care;
- whether the staff have sufficient expertise to identify and communicate the directors' obligations to them;
- the employees providing sponsor services are able to conduct an open and co-operative relationship with the FCA; and
- whether the staffing model for the sponsor function allows the sponsor to identify and manage any potential conflicts of interest in order to allow them to act for current and potential clients.

**(d) How can we demonstrate our ability to comply with the requirements set out in LR 8.6.7R(2)(b) relating to competency sets?**

The competency sets articulate five areas in which we expect sponsors, or those applying for approval to act as sponsor, to have relevant skills, knowledge and expertise. These are:

- the rules, guidance and ESMA publications directly relevant to sponsor services;
- the procedural requirements and processes of *the FCA*;
- the due diligence process required in order to provide sponsor services in accordance with LR 8.3 and LR 8.4;
- the responsibilities and obligations of a sponsor set out in LR 8; and
- specialist industry sectors, if relevant to the sponsor services it provides or intends to provide.

TN/71x.1 provides a description of the types of skills, knowledge and expertise that we expect sponsors to consider when assessing their understanding of each of these competency sets; depending on a sponsor's business model, it may wish to consider other relevant areas. However we consider the competency sets listed above to be the core abilities a sponsor should be able to demonstrate when assessing whether it is competent to carry out sponsor services.

Our expectation is that, on an annual basis, in preparing for the submission of the AN, those responsible for the sponsor function within their firms will consider the skills, knowledge and expertise of those performing sponsor services, with reference to the descriptions set out in TN/71x.1, and form a view, based on the factors set out in LR 8.6.7CG, as to whether they have a sufficient number of employees who can demonstrate the required skills, knowledge and expertise. Further guidance on our expectations of this assessment is set out below.

**(e) Do you expect us to assess individuals against the competency sets?**

We do not expect sponsors or new applicants to perform a detailed assessment of each individual's understanding of each competency set. However, we would expect staff

responsible for assessing compliance with LR 8.6.5R(2) to document how they reached a view that the sponsor function, as a whole, is competent to provide sponsor services with reference to each competency set. In firms where the sponsor role is carried out by a limited number of employees, more consideration is likely to be given at an individual level to the ability of the sponsor to meet the requirements of LR 8.6.7R(2)(b).

We envisage that in assessing the sponsor function, those performing the assessment will draw on their knowledge of those employees' skills, work experience on sponsor services and other corporate finance activity and recent training. We would also expect those performing the assessment to consider any potential gaps in knowledge which they might identify, to consider 'key man risk' and/or possible succession planning, and to reflect on any pertinent feedback that they may have received from the UKLA Department during the performance of sponsor services. Where a sponsor is of the view that it may not meet the requirements of LR 8.6.6R, it should contact the Sponsor Supervision Team as soon as possible.

**(f) Will you expect each employee involved in the provision of sponsor services to be able to demonstrate an understanding of all the competency sets as set out in LR8.6.7R(2)(b)?**

We are aware that sponsors do not all conduct their business in the same way, often using different staffing or management models. We are also aware that, when a firm acts as a sponsor, there will not necessarily be a separate business unit acting 'as sponsor'. Firms may identify employees from a number of different business areas to carry out sponsor services, or function as a sponsor. Depending on the type of service offered and the structure of the sponsor firm, the employees identified may each hold different skill sets and bring different knowledge and expertise to the sponsor team performing the sponsor service. Therefore, we do not expect each employee to be able to demonstrate an understanding of all competency sets.

However, a sponsor is required to have systems and controls in place regarding 'appropriate staffing arrangements': this requirement in LR 8.6.12R(6) seeks to ensure that sponsors consider the ability of the execution team allocated to the sponsor service to comply with the requirements of LR 8, including the Principles for Sponsors in LR 8.3. Therefore a sponsor should be structured in such a way as to ensure that the approach to staffing sponsor services takes into account the need to consider whether each client or transaction team providing a particular sponsor service is able to meet all competency sets. This does not mean that sponsors will need to restructure their businesses or the way in which they provide corporate advisory work to their clients, but rather that sponsors will need to consider the staffing of each sponsor service in order to determine whether the team allocated to the matter is able, as a whole, to meet our requirements as well as those of their client. This will therefore necessitate a sponsor assessing its ability to meet the requirements of LR 8.6.7R(2)(b) on an ongoing basis as well as on a transactional basis.

**(g) Do we need to keep a record of our assessment of competence? What level of records do we need to keep to evidence the steps we have taken to comply with these obligations?**

Sponsors are required to keep records of their assessment of competence and to provide evidence to support and an annual confirmation that they satisfy the criteria for approval (LR 8.7.7R and LR 8.7.7AR), including the competence requirements set out in LR 8.6.7R. In addition, sponsors are also required to keep records of the steps that they have taken to comply with their obligations under LR 8.6.6R (LR 8.6.16AR(4)).

Clearly the level of detail that a sponsor is expected to record when meeting these obligations, particularly in relation to any competence assessment, will differ depending on the size of the firm, the sectors in which it operates and its level of activity. In order to assist with their record keeping obligations in this area, sponsors may wish to use the AN as a record of the steps

that they have taken to comply with their obligations under LR 8.6.16AR(4) and LR 8.7.7AR(1). To this end, the AN includes prompts for sponsors to consider when completing the form. Should sponsors wish, they may of course retain more detailed records underpinning their considerations of compliance with these requirements. This may be the case where the firm already carries out a more in-depth review process of staff or their function for their own or other regulatory purposes.

The AN sets out each of the criteria for approval as a sponsor, as well as the more detailed components of the competence requirements (LR 8.6.7R) including the competency sets. Under each requirement, the form provides space for sponsors to record, using free text, how they believe that they are able to meet the requirements. As an example, we set out below an illustration of the type of text a sponsor may provide in relation to the first competency set (LR 8.6.7(2)(b)(i)).

Extract from the AN: Example text

i. Understand :

1. the rules, guidance and ESMA publications directly relevant to sponsor services

*(please provide details of the area of the business or identified staff which the sponsor relies on to demonstrate compliance with this requirement and an indication of how the sponsor is able to demonstrate the skills, knowledge and expertise required, including transactional and advisory experience as well as any relevant training or other resource).*

[Sponsor] relies on the employees within the sector teams of the Investment Banking Division ('IBD') in the London office to provide expert knowledge of the LRs, DTRs and PRs. In particular, the Real Estate, Retail and Extraction teams carry out the bulk of our sponsor services and much of our expertise resides within the employees in those teams. Where other sector teams intend to undertake sponsor services we ensure that they are supported by staff in our specialist execution team who also undertake sponsor services on a regular basis. In order to ensure that these teams retain up-to-date knowledge of the relevant rules and guidance we undertake the following:

1. We assess on an annual basis the transactional experience of the teams gained acting for FTSE 350 companies and in particular we identify where the service provided has been a sponsor service. For a breakdown of transaction experience (including the names of those involved in the performance of the service) we would refer you to our response to Q12 in Part B of this form;
2. We retain 2 law firms on an ongoing basis to update us on regulatory changes and to provide us with bespoke training on hot topics arising in relation to the provision of corporate advisory services including carrying out the role of sponsor. Details of training provided to IBD and supporting functions this year are set out in Qx below;
3. We have embedded compliance resource within IBD which ensures that staff providing or likely to provide sponsor services are briefed on regulatory changes, including guidance and other publications from ESMA which are relevant to the provision of sponsor services;
4. We hold weekly WIP meetings for IBD in order to disseminate knowledge gained on live transactions concerning, amongst other things, interactions and expectations of the UKLA Department;
5. We currently act as broker to 6 FTSE250 clients whom we regularly advise on announcement and other disclosure obligations;

The above example is modelled on a large integrated firm which is an approved sponsor. Given the differing types of firms approved as sponsors, the level of detail and evidence relied on is likely to differ from sponsor to sponsor. For instance, a firm operating a corporate broking business model, or an advisory only business, may rely on a smaller core team of employees to conduct sponsor services. Such sponsors may seek to demonstrate compliance with LR 8.6.7(2)(b)(i) by making similar submissions as above in relation to transaction experience (paragraph 1),



internal dissemination of information (paragraph 4) and other experience of providing advice on the LRs, DTRs and PRs (paragraph 5) but would describe differing approaches to training and compliance (paragraphs 2 and 3) and staffing of transactions, which may rely more on key individuals, such as directors, rather than team structures as in the example above. Ultimately, however, those responsible for the assessment will need to demonstrate that they have a reasonable basis on which to provide the confirmation that they continue to meet the criteria for approval, including the competence requirements.

**(h) How do we comply with LR 8.6.7R (2)(b)(v) which requires a sponsor to have an understanding of specialist industry sectors, where relevant to the sponsor's business?**

This requirement is only relevant where a sponsor intends to provide sponsor services to an issuer in a specialist sector. As such, for sponsors that do not operate, or intend to operate, in specialist sectors, such as mineral or property sectors, it will not be necessary to consider whether the sponsor function demonstrates an understanding of this competency set.

For sponsors that do intend to provide sponsor services for specialist sector issuers, it is important that they consider how they are able to meet our expectations: these are more particularly described in section A of TN/71x.1. It is possible that some sponsors are structured in a way which recognises sector expertise and, as such, are able to meet this requirement relatively easily. However, in other cases, it may be necessary for the sponsor to draw together specialists from other areas of the firm, such as research analysts who may need to be wall-crossed or colleagues in different jurisdictions with expertise in a particular area. In some cases a sponsor may need to consider how best to enhance existing knowledge within the firm by making use of external specialists. It may also be necessary for the sponsor to arrange additional training for the team involved.

**(i) LR 8.6.7AG indicates that in order to meet the requirement of providing a sponsor declaration in the last three years, you may 'look through' to individuals to satisfy this requirement. What does this mean? Is this only relevant to new applicants?**

At the point of application, a new applicant is unlikely to be able to satisfy the requirement of LR 8.6.7R(1) as it would not have submitted a sponsor declaration to the FCA. LR 8.6.7AG indicates that for the purposes of complying with LR 8.6.7R(1), individuals will be viewed as representing the experience of the firm for the purposes of the provision of a sponsor declaration. In LR 8.6.7AG we have highlighted that we will consider whether any of the applicant's employees have had material involvement in the provision of sponsor services that have required the submission of a sponsor declaration within the previous three years.

This requirement may also be relevant to existing sponsors which, due to low activity, wish to rely on newly recruited personnel in order to satisfy the requirement of LR 8.6.7AG.

We expect to derive a similar level of comfort from 'looking through' to individuals as we would from a sponsor having submitted a declaration. By this we mean that, in order to satisfy LR 8.6.7AG, a new applicant or existing sponsor unable to meet LR 8.6.7R(1), should retain relevant employees who understand the process behind a sponsor declaration, what our expectations are in terms of reaching a reasonable opinion after due and careful enquiry, and what obligations apply to a sponsor before submitting a declaration. This should be evidenced at least through an employee's appropriate level of involvement in submitting a sponsor declaration at their previous employer (being an approved sponsor), thereby demonstrating an understanding of these requirements.

We would therefore not consider the following examples, by themselves, to demonstrate an appropriate level of involvement:

- *Signing a sponsor declaration:* sponsor declarations are given by firms, not individuals. Declarations are required to be signed by a duly authorised officer of the sponsor, although individuals completing the form on behalf of the sponsor may not have been involved in the execution of any of that sponsor service and may have been providing an executive or peer review function at their previous employer. While the expectation is that the individual signing the declaration has sufficient understanding of the sponsor regime to provide sufficient comfort that the sponsor requirements have been complied with, we would not assume this is the case based solely on the execution of that declaration.
- *Submitting documents to the UKLA Department:* we recognise that someone making submissions to the UKLA Department during the course of a sponsor service may not have the requisite skills in order to satisfy this requirement, and therefore we cannot make the assumption that being a contact for a transaction will satisfy this requirement.

**(j) What is the minimum number of employees a new applicant needs to retain in order to be approved as a sponsor?**

Our rules relating to sponsor competence require a sponsor to maintain a sufficient number of skilled staff (LR 8.6.7R(2)), in other words, adequacy of resource. New applicants will need to determine whether they have sufficient resource to meet their expected business activity, in light of the guidance set out in LR8.6.7CG, and whether they will be able to provide sponsor services in accordance with the Principles for Sponsors, including the need to provide sponsor services with due care and skill. We do not expect any sponsor to be able to satisfy this requirement by employing the minimum number of employees capable of meeting the key contact requirements in LR 8.6.19R.

Furthermore, although LR 8.6.7DG indicates that in order to be competent, we would expect a sponsor to have a minimum of two employees capable of performing the role of key contact in order to minimise key person risk, a sponsor will need to consider the number of key contacts it needs in the context of its business model and activity levels. This may require a sponsor to staff its operations with significantly more than the minimum number of key contacts set out in LR8.6.7DG.

New applicants will also need to consider how they intend to satisfy LR 8.6.7R(1) (submission of a sponsor declaration in the last three years) and may need to recruit employees to meet these requirements by applying the provisions of LR 8.6.7AG as discussed in question (i) above. Employees capable of meeting this requirement may also be able to meet the key contact requirements in LR 8.6.19R.

LR 8.6.20G sets out our expectation that key contacts will have undertaken a sponsor service in the last three years. This is because we do not expect key contacts to be able to meet these requirements through training alone, particularly the need for key contacts to be knowledgeable in relevant parts of the Handbook and applicable guidance referred to in LR 8.6.19R(d). We would therefore expect a sponsor or new applicant to contact us to discuss whether an individual should be identified as a key contact where they have limited or no practical experience of providing sponsor services to certain types of companies.

**(k) We only want to provide sponsor services to premium listed investment companies. Can we still apply?**

In April 2013, the FCA received powers which enabled us to approve sponsors with restrictions or limitations. LR 8.6.5CG provides for firms who wish to apply on a limited approval basis. We recognise that one area where firms may wish to specialise is by providing sponsor services to premium listed investment companies only. The competence requirements set out in LR 8.6.7 are the same for any new applicant or sponsor. However, recognising that the regime

for premium listed investment companies differs from premium listed commercial companies in some areas, we have provided separate guidance on the competency sets in TN/71x.1 for persons wishing to provide sponsor services solely to premium listed investment companies or premium listed commercial companies. A new applicant wishing to provide sponsor services solely to premium listed investment companies should refer to Section B of TN/71x.1.

**(l) We are a Nominated Adviser for the purposes of the AIM Rules for Companies. Can we become a sponsor based solely on this experience?**

We believe the sponsor regime is an expert regime and that the best indicator of competence is through previous experience of performing the role. Based on discussions with stakeholders, it is our view that the role of the sponsor cannot be replicated by other experience.

**(m) We have experience of providing sponsor services to premium listed investment companies but have only acted for commercial companies in other corporate advisory roles. We wish to apply for sponsor approval. Can we meet the criteria for approval without being subject to a restriction or limitation?**

Should an applicant be able to demonstrate that it has submitted a declaration in the previous three years on a sponsor service for a premium listed investment company, either on a firm basis or on a 'look-through' basis, it will meet the requirements of LR 8.6.7R(1). However, we would need to be satisfied that the firm has the necessary skills, knowledge and expertise to meet the competence requirements in LR 8.6.7R(2) and that it has a sufficient number of key contacts who can meet the requirements of LR 8.6.19R.

In our experience, given the specialist and expert nature of our regime, experience obtained in other corporate advisory work is unlikely, by itself, to demonstrate that the applicant is able to meet the competence requirements for sponsors. For instance, premium listed companies are subject to requirements applying to significant and related party transactions in LR10 and LR11. Furthermore, different regimes do not require the same consideration of areas of due diligence that LR8 requires of sponsors. We believe the nature of the relationship between the FCA and sponsors is not replicated by any other regime, in terms of both operational matters and issues of responsibility. Therefore, should we believe that an applicant has limited or no experience in providing sponsor services of a particular type or to a certain type of company, we may consider the applicant to be unable to meet LR8.6.5R(2), and seek to impose restrictions under LR 8.6.5AR as envisaged through LR8.6.5BG.

Should an applicant be seeking approval as a sponsor without restriction or limitation, we would also expect its employees acting as key contacts to have had experience of providing sponsor services to companies in both premium listed segments in order to demonstrate an ability to comply with LR 8.6.19R.

**(n) Can we have more than one key contact on a transaction?**

In relation to a live sponsor service, the sponsor should allocate only one key contact to that service. As the allocated key contact will have the authority to make representations for and on behalf of the sponsor, we believe it is important that we are able to place reliance on, and ensure continuity through, the use of that one named key contact. However, we recognise that key contacts may need to draw on other experience within the sponsor firm during the course of the sponsor service.

There may be circumstances, such as sickness or holiday absence, where the allocated key contact may not be available. In those circumstances, the sponsor should inform the FCA of the new key contact as soon as possible.

We do not prescribe that all communications with the UKLA Department must be through the key contact identified for a particular matter – for more guidance on this, please refer to (o) below.

**(o) Do we need to identify key contacts on an annual basis or on a transaction basis?**

Each time a sponsor provides a sponsor service requiring the submission of a document or contact with the FCA, it must identify a key contact (LR 8.6.19R(1)). However, in order to ensure a suitable level of resource at all times, sponsors are required to retain a sufficient number of employees who are able to meet the requirements of LR 8.6.19R in light of the expected pipeline of sponsor work (LR 8.6.7R(2)(c) and LR 8.6.7CG). Our expectation is that sponsors will be able to identify employees capable of acting as key contacts on an ongoing basis and provide details of those individuals in each AN submitted. As set out in LR 8.6.7DG, as a minimum, we would expect a sponsor to identify two employees who are qualified to carry out the key contact role. Sponsors may identify more employees in their AN and may, at any point, notify the FCA of additional key contacts. This can be communicated directly to the Sponsor Supervision Team. Where the FCA considers that more key contacts are required than the number identified in the AN, we may seek to challenge and discuss this with the sponsor. It should be noted that, as a key contact is required to be sufficiently knowledgeable about the client and the transaction or matter the subject of the sponsor service, our expectation is that the key contact is drawn from the transaction or client team providing the sponsor service.

**(p) What level of involvement do you expect from a 'key contact' on a sponsor service?**

The purpose of the key contact requirements set out in LR 8.6.19R is to ensure that when a sponsor acts on a sponsor service, it is communicating with us through appropriately skilled and experienced staff who have the authority to make representations on behalf of the sponsor. LR 8.6.19R sets out the specific requirements for key contacts, highlighting that they must be knowledgeable about the issuer and matter under consideration, that they should be available to answer queries from the FCA during specified hours, are authorised to make representations to the FCA for and on behalf of the sponsor and that they are able to demonstrate an understanding of two specified competency sets. We have also set out our expectation that key contacts have previous recent experience of providing sponsor services. In selecting an individual to act as a key contact on a sponsor service, we would expect a sponsor to consider the person best placed to meet the requirements of LR 8.6.19R in relation to that particular service.

We expect a key contact to be involved in communications with the UKLA Department which require, or may require, the sponsor to provide confirmations or explanations on which we will rely in order to determine compliance with the LRs, PRs and DTRs. For example, this could include calls to discuss comments raised by the document vetting process that relate to matters covered by the sponsor declaration such as working capital, or questions concerning the issuer's compliance with a necessary disclosure in a public document, or discussions in relation to eligibility matters. We would also expect the key contact to play a role in the preparation or review of any written submissions to the FCA as that individual will need to be available to answer any queries we may have on these types of communications. However, as key contacts are required to be able to make representations on behalf of the sponsor, our expectation is that they will be likely to hold a more senior position in the firm. We would not expect a key contact to be involved in every call or communication with the FCA, as we recognise that some discussions may be more administrative in nature or relatively straightforward and, as such, capable of being dealt with by other members of the team. We will endeavor to ensure that calls where a key contact should be in attendance are flagged to the sponsor. However, ultimately we will expect sponsors to use judgment when considering whether a key contact should be involved in a particular communication.

**(q) What happens if employees providing sponsor services, including key contacts, leave the firm? Will we still be competent?**

The number of employees who are capable of meeting the key contact requirements must be proportionate to a sponsor's business and operations (LR 8.6.7CG), with the caveat that we expect all sponsors to retain at least two employees capable of acting as a 'key contact'. Sponsors may be able to replace an employee who is a key contact from existing staff in which case they will continue to satisfy LR 8.6.7R(2)(c).

However, should any employee providing sponsor services leave a firm, whether or not they are a key contact, the sponsor must consider whether they are staffing sponsor services in a way that allows them to continue with fewer personnel or whether they need to consider recruiting further staff in order to satisfy the requirements set out in LR 8.6.7R(2).

A sponsor must notify the Sponsor Supervision Team of any material changes in personnel under LR 8.7.8R(1) should the departure impact on the sponsor's ability to satisfy the criteria for approval (LR8.6.5R).

Where we believe that remedial steps can be taken in the short term, a sponsor may seek to suspend its sponsor activity until such time as it can recruit further staff or take other steps in order to satisfy these requirements. Where it is unlikely that a sponsor will meet these requirements, a sponsor may need to consider seeking a cancellation of its approval.

## **Annex 2**

# **Annual Notification form and New Applicant form**

# Annual Notification Form

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## A. Sponsor confirmation

Name of Sponsor

Trading name (if different)

Address

Postcode:

Tel: Fax:

Italicised terms in this form have the meaning given to them in the *listing rules*.

The undersigned officers of [INSERT NAME OF SPONSOR] confirm, as required by LR 8.7.7(1)R, that [INSERT NAME OF SPONSOR] continues to satisfy the criteria for approval as a *sponsor* as set out in LR 8.6.5R.

We confirm that the information in this form is complete and correct to the best of our knowledge and belief as at the date hereof. We understand that we may be liable to prosecution should we be found to have given false or misleading information, either knowingly or recklessly.

Person(s) with management responsibility for *sponsor services*      Person(s) with responsibility for compliance with LR8

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<b>Signature</b>	<b>Signature</b>
<b>Print Name</b>	<b>Print Name</b>
<b>Position</b>	<b>Position</b>
<b>Date</b>	<b>Date</b>

For the purposes of complying with the Data Protection Act 1998, please note that any personal information provided to the FCA will be used by the FCA to discharge its statutory functions under the Act and other relevant legislation and that it may be disclosed to third parties for those purposes.



## B. Evidence to support Part A confirmation

Pursuant to *LR 8.7.7(1A)R* we set out in paragraphs 1-3 below evidence of the basis upon which [INSERT NAME OF SPONSOR] considers it meets each of the criteria for approval as a *sponsor*:

1. **LR 8.6.5R(1): [INSERT NAME OF SPONSOR] is an *authorised person* or a *member of a designated professional body*:**

(Details provided should be for the corporate *person* approved as *sponsor* only and should include full name of *authorised person*, authorisation number and nature of authorisation(s) granted. Where a *sponsor* is seeking to rely on the membership of a *designated professional body* to satisfy *LR 8.6.5R(1)*, please provide details of the body of which the *sponsor* is a *member* and provide brief details in relation to the corporate *person*'s membership).

2. **LR 8.6.5R(2): [INSERT NAME OF SPONSOR] is competent to provide *sponsor services* in accordance with *LR8*:**

The following paragraphs set out the requirements of *LR 8.6.7R* as applied by the *FCA* pursuant to guidance set out in *LR 8.6.7BG- LR8.6.9BG*. Should any *sponsor* wish to evidence its ability to comply with *LR 8.6.5R(1)* otherwise, please provide any relevant additional information on a separate sheet to be submitted with this form.

a) ***Sponsor declarations* submitted to the *FCA* in last three years**

(Please provide a list of transactions on which a *sponsor declaration* was submitted to the *FCA* within the three years preceding the date of this form. Transactions requiring a *sponsor declaration* should include applications for *admission of equity shares to premium listing* accompanied by a *prospectus* submitted for *FCA* approval or equivalent; transactions requiring a *circular* to be submitted to the *FCA* for approval in relation to (a) a *class 1 transaction*; (b) restructuring or refinancing; or (c) a purchase of own shares requiring inclusion of a working capital statement. Should details of transactions carried out by an *employee* at a previous employer be included for the purposes of *LR 8.6.7AG*, please identify these transactions by including the details in **bold text**.)

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Date of sponsor service (e.g. document approval date, date of confirmation)	Name of Issuer	Description of transaction	Core team (please denote any key contact by use of an asterisk (*))	Completed (Y/N)	Joint sponsor (If the firm acted as a joint sponsor, please identify the other sponsors)

**[To the extent that you wish to rely on transactional or other client advisory work in order to evidence compliance with (sections B2(b) to (h) below, please include details in the table provided for this purpose in section C8 below, making clear in sub-sections (b) to (h) as to how the sponsor is relying on this prior experience. ]**

**b) Sufficient number of employees with the skills, knowledge and expertise for it to provide sponsor services in accordance with LR8.3**

(Please provide an overview of how your sponsor function is resourced, including details of staff and areas of the business utilised in carrying out the role of a sponsor. In particular please consider the following:

- whether the number of staff within the organisation allocated to the provision of *sponsors services* is sufficient resource for the expected pipeline of transactions to be conducted to a professional standard of care;
- whether staff have sufficient expertise to identify and communicate *LR* and *DTR* obligations to *directors* of premium listed *issuers*;
- whether the structure of the function allows staff to conduct an open and co-operative relationship with the *FCA*; and
- whether the staffing model for the sponsor function allows the *sponsor* to identify and manage any potential conflicts of interest in order to

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allow them to act for current and potential clients.  
(Cross references to other parts of this form are permitted.)

**c) Sufficient number of *employees* with the skills, knowledge and expertise for it to understand *rules, guidance* and *ESMA* publications directly relevant to *sponsor services***

(Please provide details of the area of the business or identified staff which the *sponsor* relies on to demonstrate compliance with this requirement and an indication of how the *sponsor* is able to demonstrate the skills, knowledge and expertise required, including transactional and advisory experience as well as any relevant training or other resource). [N.B. this is likely to include transactions on which the firm, or those individuals comprising the sponsor function, acted as *sponsor*; transactions completed for *AIM*-quoted or *standard listed companies* which required consideration of the *Listing Rules, Prospectus Rules and Disclosure and Transparency Rules*; non-transactional advice to *premium listed companies*]

**d) Sufficient number of *employees* with the skills, knowledge and expertise for it to understand the procedural requirements and processes of the *FCA***

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(Please provide details of the area of the business or identified staff which the *sponsor* relies on to demonstrate compliance with this requirement and an indication of how the sponsor is able to demonstrate the skills, knowledge and expertise required, including transactional and advisory experience as well as any relevant training or other resource) [N.B. *sponsors* may wish to rely on transactions on which the firm, or those individuals comprising the sponsor function, acted for *premium listed companies*, *standard listed companies* or *AIM-quoted companies* which required submissions to the *UKLA Department* outside of the role of *sponsor*, including matters which required consideration of the *Listing Rules*, *Prospectus Rules* and *Disclosure and Transparency Rules* resulting in the submission of requests for individual guidance, other documentation requiring vetting or *sponsor services* conducted by the firm which required liaison with the *UKLA Department*. Cross references to other parts of this form are permitted).

- e) **Sufficient number of *employees* with the skills, knowledge and expertise for it to understand the due diligence process required in order to provide *sponsor services* in accordance with *LR 8.3* and *LR 8.4***

(Please provide details of the area of the business or identified staff which the *sponsor* relies on to demonstrate compliance with this requirement and an indication of how the *sponsor* is able to demonstrate the skills, knowledge and expertise required, including transactional and advisory experience as well as any relevant training or other resource). [N.B. *sponsors* may wish to rely on experience gained not only on *sponsor services* but also transactions carried out for clients which required similar processes to be carried out in order to meet equivalent regulatory or other legal requirements.]

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**f) Sufficient number of *employees* with the skills, knowledge and expertise for it to understand the responsibilities and obligations of a *sponsor* set out in *LR 8***

(Please provide details of the area of the business or identified staff which the *sponsor* relies on to demonstrate compliance with this requirement and an indication of how the *sponsor* is able to demonstrate the skills, knowledge and expertise required, including transactional and advisory experience as well as any relevant training or other resource.) [N.B. Sponsors may also wish to cite relevant use of dedicated resources or organisational arrangements or procedures put in place in order to meet these requirements.]

**g) Sufficient number of *employees* with the skills, knowledge and expertise for it to understand specialist industry sectors, if relevant to the *sponsor services* it provides or intends to provide**

(Please identify any relevant specialist industry sectors in which the firm provides, or intends to provide, *sponsor services*. If not relevant please state. Please also provide details of the area of the business or identified staff which the *sponsor* relies on to demonstrate compliance with this requirement in relation to each identified sector and an indication of how the *sponsor* is able to demonstrate the skills, knowledge and expertise required, including transactional and advisory experience as well as any relevant training or other resource.)

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- h) **Sufficient number of employees with the skills, knowledge and expertise for it to be able to comply with the key contact requirements in LR8.6.19R.** [N.B. The FCA expects a sponsor to have no fewer than two employees who are able to satisfy the requirements of LR8.6.19R (LR8.6.7DG). Sponsors are also expected to consider the factors set out in LR8.6.7CG when considering whether they have sufficient numbers of employees to meet these requirements. Therefore sponsors should include all employees they expect to be able to act as a key contact on sponsor services in the next 12 months in this section of the form.]

Name of employee	Position/role of employee	Sponsor services carried out in the last 3 years? (Y/N*)

\*The FCA expects an employee carrying out the role of key contact to have provided a sponsor service in the previous 3 years (LR8.6.20G). In the event that an employee listed above is not able to meet this expectation, the sponsor must accompany this form with an explanation as to how the sponsor is otherwise able to meet the requirements of LR8.6.19R.

3. **LR8.6.5R(3): [INSERT NAME OF SPONSOR] has appropriate systems and controls in place to carry out its role as a sponsor in accordance with LR8.**

(Please provide a brief overview of the sponsor's systems and controls which apply to the provision of sponsor services with reference to the requirements set out in LR8.6.12R. In particular, details of the following should be provided:

- Use of reporting lines and allocation of management responsibility on an ongoing and transactional/client basis;
- Provisions enabling management are able to comply with LR8.6.12R(1A);
- Arrangements for appropriate supervision of employees providing sponsor services;
- Procedures in place to enable compliance with applicable listing rules at all times;

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- Applicable staffing arrangements for sponsor services;
- Provisions for training staff providing sponsor services;
- Arrangements to allow employees providing sponsor services to receive guidance;
- Systems and controls in place to identify and manage conflicts of interest in relation to sponsor services;
- Arrangements in place to enable the sponsor to demonstrate compliance with LR8.6.7R(2); and
- Records management procedures in place in relation to sponsor services.

Cross references to other parts of this form are permitted

Where there have been material changes to applicable systems and controls in the last 12 months, please provide details of those changes and, where relevant, provide copies of any revisions to relevant manuals, highlighting changes to the text on the face of the submission through blacklining or otherwise).

Blank area for providing details of changes and copies of revisions to relevant manuals.

**C. Additional information**

This section requests information to support the FCA's ongoing supervisory functions in relation to you as a *sponsor*

**1. Management responsibility for *sponsor services***

(*Employees of the sponsor* included in section C1(a) are expected to be those *persons* who are *employees* with management responsibilities for the provision of *sponsor services* as referred to in LR 8.6.12R(1A). To the extent that responsibility for compliance with LR8 is overseen by another *employee*, they should be identified in section C1(b) below – otherwise please insert details of the *sponsor's* compliance officer who oversees the provision of sponsor declarations to the FCA.)

<b>(a) Person(s) with management responsibility for <i>sponsor services</i></b>	<b>(b) Person(s) with responsibility for compliance with LR8</b>
Name	Name
Position	Position
Telephone/Email	Telephone/Email

**2. Please include an organisational chart showing *employees* who will be carrying out *sponsor services* in the next 12 months, including details of all roles/positions and reporting lines. Please include details of any ancillary or supporting functions.**

**3. Please provide details of any notifications required to be given to the FCA under LR 8.7.8R which have not been previously notified, in particular details of any regulatory intervention, criticism or disciplinary action as contemplated in LR 8.7.8R(4).**



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[Redacted area]

4. Please provide details of any anticipated significant changes to your firm's corporate business model in the 12 months following the date of this annual notification (e.g. details of changes in business strategy, organisational structure, geographical markets and product lines).

[Redacted area]

5. Please describe your firm's target market sector(s) and target size of *issuer(s)* for the provision of *sponsor services* in the next 12 months. Please provide details of any business development strategies adopted by the firm which may impact on its provision of *sponsor services* during this period.

[Redacted area]

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**6. Please provide details of any formal or informal limitations or restrictions which may impact on the range of *sponsor services* your firm offers.**

(Please include any restrictions agreed with the *FCA* and/or any internally imposed restrictions or other strategic limitations (e.g. no or limited capacity for underwriting resulting in lack of engagement with *issuers* in respect of fundraising).

**7. Please provide a list of *premium listed companies* who are existing clients of your firm. Please include details of the nature of the relationship with each client (e.g. corporate broker, financial adviser).**

**8. To the extent your firm considers it relevant to Sections A and B above, please include details of any relevant experience (not included within Section B Paragraph 2 (a)) being relied on for the purposes of Section B Paragraph 2(b) to (g) above.**

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Date	Issuer	Description of service	Core Team	Completed (Y/N)	Relevant experience

9. Please provide details of any staff changes to the employees providing *sponsor services* since your last annual notification, including leavers, joiners and promotions. For new joiners who are likely to be *employees providing sponsor services*, please include a copy of their CV.

10. Please provide details of key worker/succession planning risks (for both temporary and permanent absences) identified within your firm's team working on *sponsor services* and provide details of how those risks are managed.

## Annual Notification Form

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11. Please provide details of any training and guidance provided to the team working on *sponsor services* since your last annual notification not otherwise referred to in this form which is relevant to your ability to satisfy LR8.6.5R and any relevant planned training in the next 12 months.

12. Please provide details of any internal reviews conducted in relation to your firm's provision of *sponsor services* since your last annual notification and provide details of their findings and/or conclusions.

# Application Form for Approval as a Sponsor

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## A. Applicant information

Name of applicant

Trading name (if different)

Address

Postcode

Tel:

Fax:

**Italicised terms in this form have the meaning given to them in the *listing rules*.**

# Application Form for Approval as a Sponsor

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1. Legal status of applicant (e.g. public limited company, private limited company, *limited liability partnership*, etc.)

2. Place and date of incorporation or formation

3. Primary contact for the purposes of this application

Name:

Position:

Email:

Tel:

4. Please describe the applicant's current business and reasons for applying to be a sponsor.

5. Please describe your firm's target market sector(s) and target size of *issuer(s)* for the provision of corporate advisory services including *sponsor services*. Please describe the types of *sponsor services* that the applicant intends to perform (e.g. offers of securities, corporate M&A activity, etc.)

# Application Form for Approval as a Sponsor

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[Redacted area]

6. Please provide a list of *premium listed companies* who are existing clients of your firm. Please include details of the nature of the relationship with each client (e.g. corporate broker, financial adviser).

[Redacted area]

# Application Form for Approval as a Sponsor

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## B. Criteria for approval

### LR8.6.5R(1) – authorised person or member of a designated professional body

Details provided should be for the corporate person seeking approval as sponsor only and should include full name of authorised person, authorisation number and nature of authorisation(s) granted. Where an applicant is seeking to rely on the membership of a designated professional body to satisfy LR 8.6.5R(1), please provide details of the body of which the applicant is a member and provide brief details in relation to the corporate person's membership as requested below).

#### 1. Is the applicant:

*authorised* under the Financial Services and Markets Act 2000 (the Act)?

Yes

No

If yes, please provide the firm's reference number

If no, is the applicant a *member* of a *designated professional body*?

Yes

No

If yes, please provide details of the relevant body and reference number:

**If *authorised* under the Act, please indicate which *regulated activities* the *person* applying for approval as a *sponsor* has been granted under its *Part 4A permission*. Please also include details of any regulatory intervention, criticism or disciplinary action in relation to these permissions.**



## Application Form for Approval as a Sponsor

### LR8.6.5R(2) – competent to provide sponsor services in accordance with LR8

The following paragraphs set out the requirements of LR 8.6.7R as applied by the FCA pursuant to guidance set out in LR 8.6.7BG- LR8.6.9BG. Should an applicant wish to evidence its ability to comply with LR 8.6.5R(1) otherwise, please provide any relevant additional information on a separate sheet to be submitted with this form. For further guidance on the application of LR 8.6.7, please refer to the following technical notes on the UKLA Knowledge Base: “Sponsors: Practical implications of competence requirements for sponsors and applicants” and “Sponsors: Guidance on the competence requirements set out under LR8.6.7R(2)(b)” [www.fca.org.uk/firms/markets/ukla/knowledge-base](http://www.fca.org.uk/firms/markets/ukla/knowledge-base) prior to completing this section of the form.)

2. Does the applicant wish to apply for approval as a sponsor providing sponsor services to premium listed investments companies only? (see LR8.6.5CG).

Yes

No

3. Has the applicant been approved as a sponsor in the last three years?

Yes

No

If yes, please provide details of any previous approval, including name of person approved and applicable dates of approval.

4. If answering yes to B3, please provide details of sponsor declarations submitted to the FCA in the last three years

(Please provide a list of transactions on which a sponsor declaration was submitted to the FCA within the three years preceding the date of this form. Transactions requiring a sponsor declaration should include applications for admission of equity shares to premium listing accompanied by a prospectus submitted for FCA approval or equivalent; transactions requiring a circular to be submitted to the FCA for approval in relation to (a) a class 1 transaction; (b) restructuring or refinancing; or (c) a purchase of own shares requiring inclusion of a working capital statement.)

Date of sponsor service (e.g. document approval date, date of confirmation)	Name of issuer	Description of transaction	Core team (please denote any key contact by use of an asterisk (*))	Completed (Y/N)	Joint sponsor (If the firm acted as a joint sponsor, please identify other sponsors)

## Application Form for Approval as a Sponsor


5. If answering no to B4, please provide details of *sponsor declarations* relevant to *employees* of the *applicant* in accordance with LR8.6.7AG

*(Please provide a list of transactions on which a sponsor declaration was submitted to the FCA (by a current employee of the applicant who had a material involvement in the provision of the sponsor service) within the three years preceding the date of this form. Transactions requiring a sponsor declarations should include applications for admission of equity shares to premium listing accompanied by a prospectus submitted for FCA approval or equivalent; transactions requiring a circular to be submitted to the FCA for approval in relation to (a) a class 1 transaction; (b) restructuring or refinancing; or (c) a purchase of own shares requiring inclusion of a working capital statement. For further guidance LR8.6.7AG, please refer to the following technical note on the UKLA Knowledge Base: "Sponsors: Practical implications of competence requirements for sponsors and applicants" [www.fca.org.uk/firms/markets/ukla/knowledge-base](http://www.fca.org.uk/firms/markets/ukla/knowledge-base).)*

<b>Date of sponsor service</b> <i>(e.g. document approval date, date of confirmation)</i>	<b>Name of issuer</b>	<b>Description of sponsor service</b> <i>(to include type of sponsor declaration provided)</i>	<b>Name of employee with material involvement in sponsor service</b>	<b>Description of involvement /role of employee in sponsor service</b>	<b>Completed</b> <i>(Y/N)</i>	<b>Name of sponsor</b> <i>(If the firm acted as a joint sponsor, please also identify the other sponsors)</i>

## Application Form for Approval as a Sponsor

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### 6. Sufficient number of *employees* with the skills, knowledge and expertise for it to provide *sponsor services* in accordance with LR8.3

*(Please provide an overview of how the sponsor function will be resourced, including details of staff and areas of the business to be utilised in providing sponsor services. In particular please consider the following:*

- whether the number of staff within the organisation allocated to the provision of sponsors services will be sufficient resource for the expected pipeline of transactions to be conducted to a professional standard of care*
- whether staff have sufficient expertise to identify and communicate LR and DTR obligations to directors of premium listed issuers*
- whether the structure of the function allows staff to conduct an open and co-operative relationship with the FCA and*
- whether the staffing model for the sponsor function allows the sponsor to identify and manage any potential conflicts of interest in order to allow them to act for current and potential clients*

*Cross references to other parts of this form are permitted.)*

### 7. Sufficient number of *employees* with the skills, knowledge and expertise for it to understand *rules, guidance* and *ESMA* publications directly relevant to *sponsor services*

*(Please provide details of the area of the business or identified staff to be relied on to demonstrate compliance with this requirement and an indication of how the applicant is able to demonstrate the skills, knowledge and expertise required, including transactional and advisory experience as well as any relevant training or other resource). [N.B. this is likely to include transactions on which the firm, or those individuals comprising the proposed sponsor function, acted as sponsor; transactions completed for AIM-quoted or standard listed companies which required consideration of the Listing Rules, Prospectus Rules and Disclosure and Transparency Rules; non-transactional advice to premium listed companies]*

## Application Form for Approval as a Sponsor

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**8. Sufficient number of *employees* with the skills, knowledge and expertise for it to understand the procedural requirements and processes of the FCA**

*(Please provide details of the area of the business or identified staff which the applicant will rely on to demonstrate compliance with this requirement and an indication of how the applicant is able to demonstrate the skills, knowledge and expertise required, including transactional and advisory experience as well as any relevant training or other resource) [N.B. applicants may wish to rely on transactions on which the firm, or those individuals comprising the proposed sponsor function, acted for premium listed companies, standard listed companies or AIM-quoted companies which required submissions to the UKLA Department outside of the role of sponsor, including matters which required consideration of the Listing Rules, Prospectus Rules and Disclosure and Transparency Rules resulting in the submission of requests for individual guidance, other documentation requiring vetting or sponsor services conducted by the applicant or its employees which required liaison with the UKLA Department. Cross references to other parts of this form are permitted].*

**9. Sufficient number of *employees* with the skills, knowledge and expertise for it to understand the due diligence process required in order to provide *sponsor services* in accordance with LR 8.3 and LR 8.4**

*(Please provide details of the area of the business or identified staff on which the applicant is intending to rely in order to demonstrate compliance with this requirement and an indication of how the applicant is able to demonstrate the skills, knowledge and expertise required, including transactional and advisory experience as well as any relevant training or other resource). [N.B. applicants may wish to consider experience gained not only on sponsor services but also transactions carried out for clients which required similar processes to be carried out in order to meet equivalent regulatory or other legal requirements.]*

## Application Form for Approval as a Sponsor

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**10. Sufficient number of *employees* with the skills, knowledge and expertise for it to understand the responsibilities and obligations of a sponsor set out in LR 8**

*(Please provide details of the area of the business or identified staff on which the applicant intends to rely in order to demonstrate compliance with this requirement and an indication of how the applicant is able to demonstrate the skills, knowledge and expertise required, including transactional and advisory experience as well as any relevant training or other resource.) [N.B. Applicants may wish to cite relevant use of dedicated resources or organisational arrangements or procedures put in place in order to meet these requirements.]*

**11. Sufficient number of *employees* with the skills, knowledge and expertise for it to understand specialist industry sectors, if relevant to the sponsor services it provides or intends to provide**

*(Please identify any relevant specialist industry sectors in which the firm intends to provide sponsor services. If not relevant please state. Please also provide details of the area of the business or identified staff which the applicant will rely on to demonstrate compliance with this requirement in relation to each identified sector and an indication of how the applicant is able to demonstrate the skills, knowledge and expertise required, including transactional and advisory experience as well as any relevant training or other resource.)*

## Application Form for Approval as a Sponsor

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### 12. Sufficient number of *employees* with the skills, knowledge and expertise for it to be able to comply with the key contact requirements in LR8.6.19R

*[N.B. The FCA expects a person seeking approval as a sponsor to have no fewer than two employees who are able to satisfy the requirements of LR8.6.19R (LR8.6.7DG). Applicants are also expected to consider the factors set out in LR8.6.7CG when considering whether they have sufficient numbers of employees to meet these requirements. Therefore applicants should include all employees they expect to be able to act as a key contact on sponsor services in the next 12 months in this section of the form.]*

*(Please identify those employees who meet the criteria set out in LR8.6.19(2) to act as a key contact for the applicant)*

<b>Name of <i>employee</i></b>	<b>Position/role of <i>employee</i></b>	<b>Previous experience and rationale for selection as key contact</b> <i>(include details of previous experience of providing sponsor services)</i>	<b>Sponsor services carried out in the last 3 years? (Y/N*)</b>
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*\*The FCA expects an employee carrying out the role of key contact to have provided a sponsor service in the previous 3 years (LR8.6.20G). In the event that an employee listed above is not able to meet this expectation, an applicant must accompany this form with an explanation as to how it is otherwise able to meet the requirements of LR8.6.19R.*

## Application Form for Approval as a Sponsor

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### **LR8.6.5R(3) – has appropriate systems and controls in place to carry out its role as a sponsor in accordance with LR8**

*The following section of the form requires details of how the applicant intends to demonstrate appropriate systems and controls as required by LR 8.6.5R(3). LR8.6.12R highlights the systems and controls necessary to satisfy LR8.6.5R(3). Guidance on what will generally be accepted as compliance with this requirement is set out in LR 8.6.13G, LR 8.6.13AG, LR 8.6.16AR, LR 8.6.16BG and LR 8.6.16CG.*

*Regard should be had to the factors set out in LR 8.6.13G when considering the efficacy of any procedural arrangements being put in place to comply with LR 8.6.12G and LR 8.6.13AG and LR 8.3.9R. When completing this form please consider how the applicant will take account of these factors.*

*Please also include with your application form a copy of any relevant written procedures and/or compliance manual(s) to be used by employees carrying out sponsor services. Cross references to these documents may be made to demonstrate compliance with this requirement however this section of the form should further explain how the applicant will be applying existing systems and controls set out therein to comply with the requirements of LR8. Please provide details of any review, or intended review, of these procedures and/or manuals. .*

**13. Describe the systems and controls that are in place for the supervision of *employees performing sponsor services* (LR 8.6.12G(2)). Please indicate what reporting lines are in place (including clear and effective management responsibilities) to address the requirements of LR 8.6.12G(1). Where relevant, please include details of any committee or other executive function put in place to manage any aspect of the provision of *sponsor services*.**

**14. Please identify those individuals who will have management responsibility for the provision of *sponsor services*. Please describe the systems and controls that are in place to enable those *employees* to understand and apply the requirements of LR 8. (LR8.6.12R(1A))**

## Application Form for Approval as a Sponsor

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[Redacted area]

**15. Please provide details below of the systems and controls that are in place to enable the *applicant* to comply with all applicable *listing rules* at all times and when performing *sponsor services* (LR 8.6.12G(3)).**

[Redacted area]

**16. Please provide details of any applicable staffing arrangements in place for the provision of *sponsor services* in accordance with the principles for *sponsors* set out in LR8.3 (LR 8.6.12G(6)). When completing this section, particular regard should be had to the nature of business being undertaken and the volume and size of transactions due to be undertaken by the applicant. Details on any staffing policies for transactions/clients should be included here.**



## Application Form for Approval as a Sponsor

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[Redacted area]

**17. Please provide details of the systems and controls the applicant has put in place to allow employees engaged in *sponsor services* to receive appropriate guidance and training. Responses should explain how any such arrangements address the requirements of *LR8.3*.**

[Redacted area]

**18. Please provide details of the systems and controls the *applicant* has put in place to enable it to demonstrate compliance with each of the requirements in LR 8.6.7R(2).**

[Redacted area]

## Application Form for Approval as a Sponsor

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[Redacted area]

**19. Please describe the systems and controls that are in place to identify and manage conflicts of interest in relation to *sponsor services* (LR 8.6.12R(8)) In responding, please consider the guidance provided in LR8.6.13AG.**

[Redacted area]

**20. Describe the systems and controls that are in place to create and retain accessible records for 6 years which are sufficient to be capable of demonstrating that the *sponsor* has provided *sponsor services* and otherwise complied with its obligations under LR 8 in accordance with the *listing rules* (LR 8.6.16AR - LR 8.6.16CG)**

[Redacted area]

**Application Form for Approval as a Sponsor**

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[Redacted content]

# Application Form for Approval as a Sponsor

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## C. Other information

The information in this section is requested in order to allow us to consider the current and expected corporate advisory business of the person applying for approval as a sponsor.

1. Please provide brief details of the *employee(s)* who will be responsible for the management of *sponsor services* by the applicant. Please also provide a brief CV for each person in section C1 below.

(*Employees of the sponsor* included in section C1(a) are expected to be those *persons* who are *employees* with management responsibilities for the provision of *sponsor services* as referred to in LR 8.6.12R(1A). To the extent that responsibility for compliance with LR8 is overseen by another *employee*, they should be identified in section C1(b) below – otherwise please insert details of the *sponsor's* compliance officer who oversees the provision of sponsor declarations to the FCA.)

(a) Person(s) with management responsibility for <i>sponsor services</i>	(b) Person(s) with responsibility for compliance with LR8
Name	Name
Position	Position
Telephone/Email	Telephone/Email

2. Please include an organisational chart showing *employees* who will be carrying out *sponsor services*, including details of all roles/positions and reporting lines. Please include details of any ancillary or supporting functions.

## Application Form for Approval as a Sponsor

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3. State the number of *employees* who will be involved in the provision of *sponsor services* excluding administrative *employees*.

4. Please include brief details of key employees who will be providing *sponsor services* in the table below. In addition, please submit a detailed CV for each *employee*, highlighting prior experience of providing *sponsor services*. (Where an *employee* is able to satisfy the requirements of LR8.6.19R, please identify these individuals by using **bold text**.)

Name	Qualifications	Position	Length of service with applicant

5. Please provide details of relevant corporate finance experience performed by the applicant over the last 3 years (other than prior experience of providing sponsor services).

*(Please include sufficient information in relation to the nature of the appointment to provide a sense of the type of work (including size of transaction, sector etc) typically performed by the applicant. Other relevant experience may include experience of providing corporate finance services; guidance or advice provided to a listed company or new applicant or other client on the listing rules, the prospectus rules and/or disclosure rules and the transparency rules in circumstances other than in providing sponsor services; performing the role of a Nominated Advisor or advising boards of public companies on the Takeover Code. Some examples have been provided on the form to assist you: please delete these before submitting the application.)*

Transaction/client	Capacity	Nature of appointment	Date

## Application Form for Approval as a Sponsor

Public Company PLC	Sponsor	Acted as sponsor, joint financial adviser and bookrunner on PLC's admission to the Official List.	June 2012
Public Company PLC	NOMAD	Acted as NOMAD and broker to PLC's placing and open offer for £75 million on AIM. As this was a public offering a PD compliant prospectus was vetted by the FCA on this transaction.	February 2013
Public Company PLC	Joint Broker	Acting for last five years as joint broker to PLC. Have provided advice on annual and interim financial reporting, disclosure of price sensitive information, including the requirements of the LRs and DTRs, liaison with institutional shareholders and assisted with minor fundraisings such as their cash placing in 2007. Have submitted various class tests to FCA during this time and have discussed disclosure requirements with FCA from time to time.	March 2009 to date
Public Company PLC	Adviser on takeover offer	Advised PLC on completed hostile takeover of XYZ plc. Liaised with Takeover Panel during offer period, advised company on preparation of documentation, stakeholding and announcement obligations as well as valuation.	September 2008

**6. Please provide details of expected provision of sponsor services in the 12 months following this application.**

## Application Form for Approval as a Sponsor

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[Redacted area]

7. Is there any other information that may be relevant to the *FCA* in considering this application? If yes, please give details below.

Yes	No
-----	----

[Redacted area]

8. Please check that you have included with this form:

- A copy of any applicable compliance manual or other written procedures referred to in section B above;
- An organogram as required by section C2 above;
- Any CVs for employees named in section C1 or C4 above;
- Any other documentation which has been cross-referred to in this form; and
- A cheque for the application fee as required by *FEES* 3.2.7R.

9. Data Protection Act disclosure

For the purposes of complying with the Data Protection Act 1998, please note that any personal information provided to the *FCA* will be used by the *FCA* to discharge its statutory functions under the *Act* and other relevant legislation and that it may be disclosed to third parties for those purposes.

## Application Form for Approval as a Sponsor

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### 10. Monitoring of *sponsors* under *LR 8*

Please note that the *FCA* will be evaluating and recording the performance of *sponsors* through communications between its *employees* and the *FCA*. This information will be used in assessing the ongoing ability of the *sponsor* to comply with *LR 8.6.6R* and will form part of any assessment of a *sponsor's* ability to comply with *LR 8.6.7R*. Information submitted in relation to this application may also be passed to other regulators to enable them to discharge their functions (see *LR 8.7.5G*).



# Application Form for Approval as a Sponsor

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## D. Declaration by officers of the applicant

I am/we are authorised to make this application for approval as a *sponsor* on behalf of the *applicant* named in Section A.

I/We confirm that the information in this application is complete and correct to the best of my/our knowledge and belief. I/We understand that I/we may be liable to prosecution should I/we be found to have given false or misleading information, either knowingly or recklessly.

I/We have read LR8 and believe that the *applicant* satisfies the criteria for approval as a *sponsor* set out in LR 8.6.5R.

I/We confirm that the *applicant* has appropriate systems and controls in place to ensure that it can carry out the role of *sponsor* in compliance with the Principles for *sponsors* as set out in LR 8.3.

I/We authorise the *FCA* to make such enquiries and to seek such further information as it thinks appropriate to verify the information given on this form.

I/We will notify the *FCA* immediately of any significant change to the information given on this form or accompanying documents.

I/We understand that the *FCA* may require me/us to provide further information or documents at any time after I/we have sent the application and before the *applicant* has been approved as a *sponsor*,

**[This declaration must be signed by two *directors* of the applicant, or, in the case of a *partnership*, by two *partners*. One should have management responsibility for the provision of *sponsor services*; the other should have responsibility for compliance by the applicant with LR8.]**

Name in block capitals	Date
Position	
Signature	
Name in block capitals	Date

## Application Form for Approval as a Sponsor

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Position

Signature

**Please return this form to:**

**Sponsor Supervision Team  
UKLA Department  
Financial Conduct Authority  
25 The North Colonnade  
Canary Wharf  
London E14 5HS**

**Note:** Please ensure that the application fee is enclosed with this application.

**Applicants should be aware that processing an application will be delayed if the information and/or documentation submitted to the *FCA*, at any stage of the approval process, is found to be inaccurate or incomplete.**

## Annex 3

# Joint sponsors Technical Note

### Title: Sponsors: *Joint Sponsors –communications with the FCA*

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Reference: UKLA/TN/xxxxx

Date: [ 2015]

Rules: LR 8.3.5R, LR 8.3.14R and LR 8.3.15G

*Joint sponsors – one sponsor firm to have responsibility for contact with the FCA in respect of administrative arrangements and joint sponsors' participation in calls and meetings with the FCA*

This TN sets out guidance in relation to communications between the FCA and joint sponsors.

#### **Appointment of joint sponsors**

Where a sponsor is required to be appointed by a listed company or applicant pursuant to LR 8.2.1R, the Listing Rules (LRs) currently permit a listed company or applicant, should it so wish, to appoint more than one sponsor to provide a sponsor service. Where more than one sponsor is appointed, this joint sponsor arrangement is governed by the Principle for Sponsors set out in LR8.3.14R which states:

*"If a listed company or applicant appoints more than one sponsor to provide a sponsor service then:*

- 1. the appointment does not relieve either of the appointed sponsors of their obligations under LR 8; and*
- 2. the sponsors are each responsible for complying with the obligations under LR 8 ."*

The guidance contained in LR8.3.15G sets out the FCA's expectation that joint sponsors co-operate with each other in relation to the provision of sponsor services. This states:

*"If a listed company or applicant appoints more than one sponsor to provide a sponsor service, the FCA expects the sponsors to co-operate with each other in relation to the sponsor service, including by establishing arrangements for the sharing of information as appropriate having regard to the sponsor service."*

#### **Contact with the FCA in respect of administrative arrangements**

LR8.5.3R requires that, where more than one sponsor is appointed, the listed company or applicant must ensure that one of the joint sponsors takes responsibility for contact with the FCA in respect of administrative arrangements for the sponsor service. In practice, therefore, where there are joint sponsors, the FCA will communicate on administrative matters with only one of the appointed sponsors, including sending comments sheets and other correspondence. We expect the sponsor which is taking responsibility for administrative contact to (amongst other things):

- arrange calls/meetings with the FCA as may be appropriate;
- submit draft documentation and completed comments sheets to the FCA; and
- circulate comments sheets and any other correspondence received from the FCA to the other appointed sponsors under the arrangements put in place pursuant to LR 8.3.15G.

**Non-administrative calls/meetings with the UKLA**

By virtue of LR 8.5.3R, it is open to one or all of the appointed sponsors to participate in calls or meetings with the FCA where non-administrative matters will be discussed. However, multi-participant calls or meetings can raise a number of practical issues for the FCA. In order to ensure communications are effective and efficient, we would therefore expect each sponsor to consider the following:

- whether it will participate in the call or meeting;
- whether the nature of the call requires a key contact to be present;
- the number of representatives from a sponsor who will participate in the call or meeting; and
- whether its representatives will actively participate in the call or meeting or be in 'listening mode' only.

The FCA will arrange calls or meetings with joint sponsors through the sponsor which is responsible for the administrative arrangements. Where practical, the FCA will give an indication of calls or meetings where we consider it may be desirable for all joint sponsors to participate.

## Annex 4

# Cost benefit analysis

1. Section 138I(2)(a) of FSMA requires us to publish a cost benefit analysis (CBA) when proposing draft rules. Section 138L(3) of FSMA states that section 138I(2)(a) does not apply where we consider that there will be no increase in costs or the increase will be of minimal significance.
2. Overall we believe that our joint sponsor proposals will not give rise to any significant additional costs. The changes will mean all joint sponsors will have the ability to engage in discussions with the FCA, and not just the 'primary contact' as is currently the case. By virtue of the amendment to LR8.5.3R, one joint sponsor will be the contact with the FCA in relation to administrative matters (receiving and submitting comments sheets etc). Since this role already exists we do not expect any significant costs to arise as a result of this change.
3. The proposed guidance at LR8.3.15G sets out that we expect joint sponsors to co-operate and supports the existing obligation at LR8.3.14R. We would not expect any significant costs to arise since the new guidance is setting out in principle how sponsors should conduct themselves.

### **Q8: Do you agree with the CBA?**

# Annex 5

## Compatibility statement

### Compatibility with the FCA's general duties

1. This Annex follows the requirements set out in section 138I FSMA. When consulting on new rules, we are required by section 138I FSMA to include an explanation of why we believe making the proposed rules is compatible with our strategic objective, advances one or more of our operational objectives, and has regard to the regulatory principles in section 3B FSMA. We are also required by section 138K(2) FSMA to state our opinion on whether the proposed rules will have a significantly different impact on mutual societies as opposed to other authorised persons.
2. This Annex also includes our assessment of the equality and diversity implications of these proposals.

### The FCA's objectives and regulatory principles

3. The proposals set out in chapter 4 of this paper are compatible with our strategic objective of ensuring that the relevant markets function well, as they assist in ensuring that the premium listing regime remains effective. The proposals set out in chapter 4 of this paper are primarily intended to advance our operational objectives of:
  - Enhancing market integrity - protecting and enhancing the integrity of the UK financial system by ensuring the premium listing regime remains robust and effective.
  - Delivering consumer protection – maintaining and securing an appropriate degree of protection for consumers, by providing premium listed issuers and investors with confidence in the sponsor regime.
4. In preparing the proposals set out in chapter 4 of this paper, we have had regard to the regulatory principles set out in section 3B FSMA.

### The need to use our resources in the most efficient and economic way

5. We believe that the proposals will have minimal impact on our resources.

### The principle that a burden or restriction should be proportionate to the benefits

6. We believe that the proposals are proportionate to the benefits.

### The desirability of sustainable growth in the economy of the United Kingdom in the medium or long term

7. We believe that the proposed rule changes allow sponsors to act in a joint capacity without compromising their ability to comply with their obligations under LR8. We believe this will lead to increased confidence in the sponsor regime.

- The general principle that consumers should take responsibility for their decisions**
8. We believe that our proposals will lead to greater transparency of our expectations of joint sponsors which will lead to an increased confidence among premium listed issuers and applicants when appointing a sponsor.
- The responsibilities of senior management**
9. We believe that our proposals will enable senior management to understand our requirements and expectations in relation to joint sponsor arrangements.
- The desirability of exercising our functions in a way that recognises differences in the nature and objectives of business carried on by different persons**
10. We believe that our proposals do not undermine this principle.
- The desirability of publishing information relating to persons**
11. We believe that our proposals do not undermine this principle.
- The principle that we should exercise our functions as transparently as possible**
12. We believe that our proposals will ensure our expectations of how joint sponsor arrangements operate are transparent.

#### **Expected effect on mutual societies**

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13. Section 138K of FSMA requires us to state whether in our opinion our proposed rules have a significantly different impact on authorised persons who are mutual societies, in comparison with other authorised persons. The relevant Listing Rules that we propose to add or amend apply equally to all premium listed issuers and applicants and to all sponsors regardless of whether they are an authorised person that is a mutual society or another authorised person.
14. We therefore believe that the impact of our proposals would not significantly differ depending on whether a premium listed issuer or applicant or a sponsor is an authorised person which is a mutual society, or another authorised person.

#### **Equality and diversity**

---

15. We are required under the Equality Act 2010 to 'have due regard' to the need to eliminate discrimination and to promote equality of opportunity in carrying out our policies, services and functions. As part of this, we conduct an equality impact assessment to ensure that the equality and diversity implications of any new policy are considered.
16. Our equality impact assessment suggests that our proposals do not result in direct discrimination for any of the groups with protected characteristics i.e. age, disability, gender, pregnancy and maternity, race, religion and belief, sexual orientation and transgender, nor do we believe that our proposals should give rise to indirect discrimination against any of these groups. We would nevertheless welcome any comments respondents may have on any equality issues they believe may arise.

## Annex 6

# List of non-confidential respondents to CP14/02

Association of British Insurers (ABI)

Association for Financial Markets in Europe (AFME)

BDO

Davy

Dexion Capital plc

GC 100 Group

HSBC Bank plc

The Institute of Chartered Accountants in England and Wales (ICAEW)

J P Morgan Cazenove

Law Society of England and Wales and City of London Law Society

Legal & General Investment Management

Liberum

National Association of Pension Funds Limited (NAPF)

Nomura

Numis Securities Ltd

Peel Hunt LLP

Quoted Companies Alliance (QCA)

N. M. Rothschild & Sons Limited

Shore Capital and Corporate Limited

UBS

USS Investment Management Limited



# Appendix 1

## Draft Handbook text

**LISTING RULES (SPONSORS) (AMENDMENT NO [6]) INSTRUMENT [2014]**

**Powers exercised**

- A. The Financial Conduct Authority makes this instrument in the exercise of the following powers and related provisions in the Financial Services and Markets Act 2000 (the “Act”):
- (1) section 73A (Part 6 Rules);
  - (2) section 88 (Sponsors);
  - (3) section 96 (Obligations of issuers of listed securities);
  - (4) section 137A (General rule-making power);
  - (5) section 137T (General supplementary powers); and
  - (6) section 139A (Guidance).
- B. The rule-making powers listed above are specified for the purpose of section 138G(2) (Rule-making instruments) of the Act.

**Commencement**

- C. This instrument comes into force on [*date*] [2014].

**Amendments to the FCA Handbook**

- D. The Listing Rules sourcebook (LR) is amended in accordance with the Annex to this instrument.

**Citation**

- E. This instrument may be cited as the Listing Rules (Sponsors) (Amendment No [6]) Instrument [2014].

By order of the Board of the Financial Conduct Authority  
[*date*]

## Annex

## Amendments to the Listing Rules sourcebook (LR)

In this Annex, underlining indicates new text and striking through indicates deleted text.

### 8.3 Role of a sponsor: general

...

Principles for sponsors: joint sponsors

8.3.14 R If a *listed company* or *applicant* appoints more than one *sponsor* to provide a *sponsor services* ~~in relation to a transaction~~ service then:

- (1) the appointment does not relieve either of the appointed *sponsors* of their obligations under *LR 8*; and
- (2) the *sponsors* are each responsible for complying with the obligations under ~~this section and elsewhere in LR 8 in relation to the transaction.~~

8.3.15 G If a *listed company* or *applicant* appoints more than one *sponsor* to provide a *sponsor service*, the *FCA* expects the *sponsors* to co-operate with each other in relation to the *sponsor service*, including by establishing arrangements for the sharing of information as appropriate having regard to the *sponsor service*.

...

### 8.5 Responsibilities of listed companies

...

Listed company appoints more than one sponsor

8.5.3 R Where a *listed company* or *applicant* appoints more than one *sponsor* to provide a *sponsor service*, the *company* must:

- (1) ensure that one ~~of the *sponsors* that is appointed~~ *sponsor* takes ~~primary~~ responsibility for contact with the *FCA* in respect of administrative arrangements for the *sponsor service* ~~entire application or transaction~~; and
- (2) inform the *FCA* promptly, in writing, of the name and contact details of the *sponsor* taking responsibility under ~~LR 8.5.3R(1)~~ .

## Appendix 2

# Handbook text in relation to CP14/02

**LISTING RULES (SPONSORS) (AMENDMENT NO 5) INSTRUMENT 2014****Powers exercised**

- A. The Financial Conduct Authority makes this instrument in the exercise of the following powers and related provisions in the Financial Services and Markets Act 2000 (the “Act”):
- (1) section 73A (Part 6 Rules);
  - (2) section 84 (Prospectus rules);
  - (3) section 88 (Sponsors);
  - (4) section 96 (Obligations of issuers of listed securities);
  - (5) section 137A (General rule-making power);
  - (6) section 137T (General supplementary powers); and
  - (7) section 139A (Guidance).
- B. The rule-making powers listed above are specified for the purpose of section 138G(2) (Rule-making instruments) of the Act.

**Commencement**

- C. This instrument comes into force on 1 October 2014, with the exception of the amendments in Annex A and the amendments in Annex B to LR 8, LR 11 and Appendix 1.1 of the Listing Rules which come into force on 1 February 2015.

**Amendments to the FCA Handbook**

- D. The modules of the FCA’s Handbook of rules and guidance listed in column (1) below are amended in accordance with the Annexes to this instrument listed in column (2) below:

(1)	(2)
Glossary of definitions	Annex A
Listing Rules sourcebook (LR)	Annex B
Prospectus Rules sourcebook (PR)	Annex C

**Citation**

- E. This instrument may be cited as the Listing Rules (Sponsors) (Amendment No 5) Instrument 2014.

By order of the Board of the Financial Conduct Authority  
25 September 2014

**Annex A****Amendments to the Glossary of definitions**

**This Annex comes into force on 1 February 2015.**

Insert the following new definition in the appropriate alphabetical position. The text is not underlined.

*sponsor declaration* a declaration submitted by a *sponsor* to the *FCA* as required under *LR* 8.4.3R (Application for listing), *LR* 8.4.9R (Further application for listing), *LR* 8.4.13R (Production of circular) or *LR* 8.4.14R (Transfer between listing category).

Amend the following definition as shown. Underlining indicates new text.

*class 1 circular* (in *LR*) a *circular* relating to a *class 1 transaction* or a transaction which must comply with the requirements of a *class 1 transaction*.

## Annex B

### Amendments to the Listing Rules sourcebook (LR)

The amendments in this Annex to LR 5 and LR 13 come into force on 1 October 2014. The amendments in this Annex to LR 8, LR 11 and Appendix 1.1 of LR come into force on 1 February 2015.

In this Annex, underlining indicates new text and striking through indicates deleted text.

#### 5.6 Reverse takeovers

...

5.6.15 G Where the *target* in a *reverse takeover* is not subject to a public disclosure regime, or if the *target* has *securities* admitted on an investment exchange or trading platform that is not a *regulated market* but the *issuer* is not able to give the confirmation and make the announcement contemplated by LR 5.6.12G, the *FCA* will generally be satisfied that there is sufficient publicly available information in the market about the proposed transaction such that a suspension is not required where the *issuer* makes an announcement containing:

...

- (4) a ~~statement~~ declaration confirming that the *issuer* has made the necessary arrangements with the *target* vendors to enable it to keep the market informed without delay of any developments concerning the *target* that would be required to be released were the *target* part of the *issuer*.

...

#### 8 Sponsors: Premium listing

##### 8.1 Application

Sponsors and applicants

8.1.1 R A *sponsor* and a *person* which is applying for approval as a *sponsor* must comply with:

- (1) ~~LR 8.3 to LR 8.4~~ (Role of a sponsor: general); and
- (2) ~~LR 8.6 to LR 8.7.~~ LR 8.4 (Role of a sponsor: transactions);
- (3) LR 8.6 (Criteria for approval as a sponsor); and

(4) LR 8.7 (Supervision of sponsors).

8.1.1A R A person applying for approval as a sponsor must comply with LR 8.6 (Criteria for approval as a sponsor).

...

## 8.2 When a sponsor must be appointed or its guidance obtained

When a sponsor must be appointed

8.2.1 R A company with, or applying for, a *premium listing* of its *equity shares* must appoint a *sponsor* on each occasion that it:

...

(14) is required to provide an assessment of the appropriateness of an investment exchange or *multilateral trading facility* under *LR 13.5.27BR*; or

(15) is required to provide a written opinion to the FCA under LR 11 Annex 1R(8) (Joint investment arrangements).

...

## 8.3 Role of a sponsor: general

...

Principles for sponsors: identifying and managing conflicts

8.3.7A G The purpose of *LR 8.3.7BR* to ~~*LR 8.3.13G*~~ *8.3.12AG* is to ensure that conflicts of interest do not adversely affect:

...

...

Principles for sponsors: acting for another sponsor

8.3.13 G ~~The requirements in this section apply to a *sponsor* that acts for another *sponsor*. The delegating *sponsor* is not relieved of its obligations under this section or elsewhere in LR 8.~~

~~[Note: See *LR 8.7.16R* to *LR 8.7.18R* which deal with delegation of functions.] [deleted]~~

...



## 8.4 Role of a sponsor: transactions

Application for admission: new applicants

8.4.1 R *LR 8.4.2R to LR 8.4.4G* apply in relation to an application for *admission of equity shares to premium listing* if an *applicant* does not have *equity shares* already admitted to *premium listing* and ~~*LR 6.1.1R* does not apply because of the operation of *LR 6.1.1AR*, the conditions in *LR 6.1.1AR* do not apply and, in connection with the application, the *applicant* is required to submit to the *FCA*:~~

- (1) ~~the production of a *prospectus*, *supplementary prospectus* or *equivalent document* is required;~~ or
- (2) ~~the application is accompanied by a certificate of approval from another competent authority;~~ or
- (3) ~~the application is accompanied by a summary document as required by under *PR 1.2.3R(8)*;~~ or
- (4) ~~the production of *listing particulars* is required in the circumstances referred to in or *supplementary listing particulars* under *LR 15.3.3R* or *LR 16.3.4R*.~~

...

Further issues: procedure

...

8.4.10 G Depending on the circumstances of the case, a *sponsor* providing services to an *applicant* on an application for *admission to listing* may have to confirm in writing to the *FCA* the number of *equity shares* to be allotted or admitted.

[**Note:** see ~~*LR 3.3*~~ *3.3.4R* ]

Class 1 circulars, refinancing and purchase of own equity shares

8.4.11 R *LR 8.4.12R to LR 8.4.13R* apply in relation to transactions involving an *issuer* with a *premium listing* of *equity shares* that is required to submit to the *FCA* for approval:

- (1) ~~is required to produce~~ a *class 1 circular*; or
- (2) ~~is producing~~ a *circular* that proposes a reconstruction or a refinancing which does not constitute a *class 1 transaction*; or
- (3) ~~is producing~~ a *circular* for the proposed purchase of own *shares*;

...

- 8.4.12 R A *sponsor* must not submit to the *FCA*, on behalf of a *listed company*, ~~an application for approval of a circular regarding a transaction set out in LR 8.4.11R for approval~~, unless the *sponsor* has come to a reasonable opinion, after having made due and careful enquiry, that:

...

...

#### Reverse takeovers

- 8.4.17 R A *sponsor* acting on a *reverse takeover* where the *issuer* decides to make a disclosure announcement under *LR 5.6.15G* must:

...

- (3) ensure that all matters known to it which, in its reasonable opinion, should be taken into account by the *FCA* in considering a proposed disclosure announcement under *LR 5.6.15G* have been disclosed with sufficient prominence in the announcement or otherwise in writing to the *FCA*.

~~[Note: The Sponsor's Declaration for a Reverse Takeover Announcement can be found on the UKLA section of the *FCA* website.]~~

[Note: The Sponsor's Declaration for a Reverse Takeover Announcement can be found on the UKLA section of the *FCA* website.]

...

## 8.6 Criteria for approval as a sponsor

...

### Criteria for approval as a sponsor

- 8.6.5 R The *FCA* will approve a *person* as a *sponsor* only if it is satisfied that the *person*:
- (1) is an *authorised person* or a *member of a designated professional body*;
  - (2) is competent to ~~perform~~ provide sponsor services in accordance with *LR 8*; and
  - (3) has appropriate systems and controls in place to ~~ensure that it can carry out its role as a *sponsor* in accordance with this chapter *LR 8*~~.

...

- 8.6.5C G Where a *person* wishes to apply for approval as a *sponsor* to provide a limited range of *sponsor services*, it may do so on the basis that the *FCA* will impose a limitation or restriction on its approval (in accordance with section 88 of the *Act*). In such circumstances, the *FCA* will assess whether the *person* satisfies LR 8.6.5R(2) and (3) taking into consideration the *sponsor services* to which the approval, as formally limited or restricted by the *FCA*, will relate.

Continuing obligations

- 8.6.6 R A *sponsor* must comply, at all times, with the criteria set out in LR 8.6.5R.

Competence of a sponsor

- 8.6.7 R A *sponsor*, or a *person* applying for approval as a *sponsor*, will be competent to provide *sponsor services* if it has a broad range of relevant experience and expertise in providing advice to *listed companies* and on the *listing rules*. ~~not satisfy LR 8.6.5R(2) unless it has:~~

- (1) submitted a *sponsor declaration* to the *FCA*:
- (a) for a *person* applying for approval as a *sponsor*, within three years of the date of its application; and
  - (b) for a *sponsor*, within the previous three years; and
- (2) a sufficient number of *employees* with the skills, knowledge and expertise necessary for it to:
- (a) provide *sponsor services* in accordance with LR 8.3;
  - (b) understand:
    - (i) the *rules, guidance* and *ESMA* publications directly relevant to *sponsor services*;
    - (ii) the procedural requirements and processes of the *FCA*;
    - (iii) the due diligence process required in order to provide *sponsor services* in accordance with LR 8.3 and LR 8.4;
    - (iv) the responsibilities and obligations of a *sponsor* in LR 8; and
    - (v) specialist industry sectors, if relevant to the *sponsor services* it provides or intends to provide; and
  - (c) be able to comply with the key contact requirements in LR 8.6.19R.

- 8.6.7A G To determine whether a *sponsor* or a *person* applying for approval as a *sponsor* is able to satisfy LR 8.6.7R(1)(a), the FCA may consider whether any of the *person's employees* have had material involvement in the provision of *sponsor services* that have required the submission of a *sponsor declaration* within the previous three years.
- 8.6.7B G In exceptional circumstances, the FCA may consider dispensing with, or modifying, the requirement in LR 8.6.7R(1) in accordance with LR 1.2.1R.
- 8.6.7C G In assessing whether a *sponsor* or a *person* applying for approval as a *sponsor* satisfies LR 8.6.7R(2), the FCA will consider a variety of factors including:
- (1) the nature, scale and complexity of its business;
  - (2) the diversity of its operations;
  - (3) the volume and size of transactions it undertakes;
  - (4) the volume and size of transactions it anticipates undertaking in the following year; and
  - (5) the degree of risk associated with the transactions it undertakes or anticipates undertaking in the following year.
- 8.6.7D G Notwithstanding LR 8.6.7CG, when considering whether a *sponsor* satisfies LR 8.6.7R(2)(c) the FCA expects a *sponsor* to have no less than two *employees* who are able to satisfy the key contact requirements in LR 8.6.19R(2).
- ...
- 8.6.9A G In assessing whether a *person* is competent to provide, or to continue to provide, *sponsor services*, the FCA will generally have regard amongst other things to the *person's*:
- (1) prior relevant experience of providing *sponsor services*;
  - (2) skills, knowledge and expertise necessary for the proper performance of *sponsor services*; and
  - (3) prior corporate finance experience. [deleted]
- 8.6.9B G In assessing whether a *sponsor* or a *person* is competent to provide, or to continue to provide, *sponsor services* applying for approval as a *sponsor* can demonstrate it is competent in the areas required under LR 8.6.7R(2), the FCA may also take into account, where relevant, the quality of any guidance or advice on the *listing rules* or *disclosure rules* and *transparency rules* the *sponsor* or *person* has given in circumstances other than in providing *sponsor services*.

...

Systems and controls: general

- 8.6.12 G ~~A sponsor or a person applying for approval as a sponsor will generally be regarded as having appropriate systems and controls if there are not satisfy~~  
R LR 8.6.5R(3) unless it has in place:
- (1) clear and effective reporting lines ~~in place for the provision of~~ sponsor services (including clear and effective management responsibilities);
  - (1A) effective systems and controls which require employees with management responsibilities for the provision of sponsor services to understand and apply the requirements of LR 8:
  - ...
  - (3) effective systems and controls ~~to ensure its~~ for compliance with all applicable listing rules at all times, including when performing *sponsor services*;
  - ...
  - (6) effective systems and controls ~~to ensure that it has~~ which require appropriate staffing arrangements for the performance of providing each sponsor services with due care and skill service in line with the principles for sponsors in LR 8.3;
  - (7) effective systems and controls ~~to ensure that for employees~~ employees engaged in the provision of *sponsor services* ~~by the sponsor to receive appropriate guidance and training for the performance of those services with due care and skill to provide~~ each sponsor service in line with the principles for sponsors in LR 8.3; and
  - (8) effective systems and controls to identify and manage conflicts of interest; ~~and~~
  - (9) effective systems and controls for compliance with each of the requirements in LR 8.6.7R(2)(b); and
  - (10) systems and controls which comply with the requirements of LR 8.6.16AR (Record management).
- 8.6.13 G ~~The nature and extent of the systems and controls which a sponsor will need to maintain will depend upon~~ When considering a sponsor's ability to comply with LR 8.6.12R, the FCA will consider a variety of factors, including:

...

- (5) the degree of risk associated with the transactions it undertakes or anticipates undertaking in the following year.

...

Systems and controls: record management

- 8.6.16A R A *sponsor* must have ~~in place~~ effective arrangements to create and retain for six years accessible records which are sufficient to be capable of demonstrating that it has provided *sponsor services* and otherwise complied with its obligations under *LR 8* ~~in accordance with the listing rules,~~ including:

- (1) where a declaration is to be submitted to the FCA:
- (a) under *LR 8.4.3R(1)*, *LR 8.4.9R(1)*, *LR 8.4.13R(1)*, *LR 8.4.14R(2)* or *LR 8.4.17R*; or ~~where relevant~~
- (b) pursuant to an appointment under *LR 8.2.1R(5)*;
- the basis of each declaration given;

...

- (4) the steps taken to comply with its ~~conflicts~~ obligations under *LR 8.3.7BR*, *LR 8.3.9R* ~~and~~, *LR 8.3.11R* and its ~~ongoing eligibility obligations under *LR 8.6.6R*.~~

...

Contact persons Key contact

- 8.6.19 R For each ~~transaction for which it provides *sponsor services*~~ *sponsor service* requiring the submission of a *document* to the *FCA* or contact with the *FCA*, a *sponsor* must:

- (1) at the time of submission or on first making contact with the *FCA*, notify the *FCA* ~~as soon as practicable~~ of the name and contact details of ~~the main~~ a key contact *person* or *persons* in within the *sponsor* for that ~~transaction~~ matter; and
- (2) ensure that ~~the~~ its key contact *person* or *persons*:
- (a) ~~have~~ has sufficient knowledge about the *listed company* or *applicant* and the proposed ~~transaction~~ matter to be able to answer queries from the *FCA* about it; ~~and~~
- (b) ~~are~~ is available to answer queries from the *FCA* on any business day between 7 am and 6pm;
- (c) is authorised to make representations to the *FCA* for and on

behalf of the *sponsor*;

- (d) possesses technical knowledge of *rules, guidance* and *ESMA* publications directly relevant to the *sponsor service*; and
- (e) understands the responsibilities and obligations of the *sponsor* under *LR 8* in relation to the *sponsor service*.

8.6.20 G The *FCA* expects an *employee* carrying out the role of key contact to have provided a *sponsor service* in the previous three years.

## 8.7 Supervision of sponsors

...

### Requirement to provide information

- 8.7.1A R (1) The *FCA* may by notice in writing given to a *sponsor*, ~~or a *person* applying for approval as a *sponsor*~~, require it to provide specified documents or specified information to the *FCA*.
- (2) The *sponsor*, ~~or the *person* applying for approval as a *sponsor*~~, must as soon as practicable provide to the *FCA* any documents or information that it has been required to provide under (1).
- (3) This rule applies only to documents or information reasonably required by the *FCA* in connection with the performance of its functions in relation to a *sponsor*, ~~a *person* applying for approval as a *sponsor*~~ or a *company* that has appointed a *sponsor*.

...

### General notifications

- 8.7.8 R A *sponsor* must notify the *FCA* in writing as soon as possible if:
- (1) ...
  - (b) the *sponsor* becomes aware of any fact or circumstance relating to the *sponsor* or any of its employees engaged in the provision of *sponsor services* by the *sponsor* which, in its reasonable opinion, would be likely to adversely affect market confidence in ~~the *sponsor* regime~~ *sponsors*; or

...

...

### ~~Performance~~ Non-delegation of *sponsor* functions on behalf of a *sponsor*

- 8.7.16 R *A sponsor must not delegate any of its functions as such, or permit another person to perform those functions, unless that person is on the list of sponsors.*
- 8.7.17 R (1) ~~*A sponsor that delegates any of its functions or permits another sponsor to perform its functions is not relieved of its obligations under the listing rules. [deleted]*~~
- (2) ~~*A sponsor that performs any function on behalf of another sponsor must comply with the requirements set out in LR 8.3. [deleted]*~~
- 8.7.18 R ~~*A sponsor must notify the FCA in writing as soon as practicable before another sponsor performs functions on its behalf of:*~~
- (1) ~~*the identity of that sponsor; and*~~
- (2) ~~*a detailed description of the functions that the sponsor is to perform on its behalf. [deleted]*~~

...

Suspension of a sponsor's approval at the sponsor's request

...

- 8.7.26A G *A sponsor may wish to consider submitting a suspension request under LR 8.7.25R where the sponsor:*
- (1) *ceases to satisfy the ongoing criteria for approval as a sponsor in accordance with LR 8.6.6R;*
- (2) *has notified the FCA in accordance with LR 8.7.8R;*
- (3) *is having ongoing discussions with the FCA regarding remedial action; and*
- (4) *is undertaking remedial action which may result in the sponsor being able to satisfy the ongoing criteria for approval in accordance with LR 8.6.6R.*

...

## 11.1 Related party transactions: Premium listing

...

### 11 Annex 1R Transactions to which the related party transaction rules do not apply

...	
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Joint investment arrangements		
8	(1)	An arrangement where a <i>listed company</i> , or any of its <i>subsidiary undertakings</i> , and a <i>related party</i> each invests in, or provides finance to, another undertaking or asset if the following conditions are satisfied:
		...
	(b)	<del>an independent adviser acceptable to the FCA</del> a <i>sponsor</i> has provided a written opinion to the <i>FCA</i> stating that the terms and circumstances of the investment or provision of finance by the <i>listed company</i> or its <i>subsidiary undertakings</i> (as the case may be) are no less favourable than those applying to the investment or provision of finance by the <i>related party</i> .
	...	
...		

...

## 13.4 Class 1 circulars

...

### Takeover offers

#### 13.4.3 R ...

- (3) The *listed company* must prepare and publish the working capital statement on the *listed company* on the basis that the acquisition has not taken place. ~~The working capital statement prepared on the basis that the acquisition has taken place must be updated and published and sent to shareholders within 28 days of the offer becoming or being declared wholly unconditional. The *circular* must state that the statements on a combined basis will be made available as soon as possible.~~

...

- (5) ~~If the takeover offer becomes unconditional, any change or addition to the information disclosed which is material in relation to the *listed company*, should be disclosed in a *circular* published (in the absence of exceptional circumstances) within 28 days after the offer becoming or being declared wholly unconditional. [deleted]~~

...

...

**Appendix 1.1 Relevant definitions**

...	
<i>class 1 circular</i>	a <i>circular</i> relating to a <i>class 1 transaction</i> or a transaction <u>which must comply with the requirements of a <i>class 1 transaction</i>.</u>
...	
<u>ESMA</u>	<u>European Securities and Markets Authority.</u>
...	
<i>sponsor declaration</i>	a declaration submitted by a <i>sponsor</i> to the <i>FCA</i> as required under <i>LR 8.4.3R</i> (Application for listing), <i>LR 8.4.9R</i> (Further application for listing), <i>LR 8.4.13R</i> (Production of circular) or <i>LR 8.4.14R</i> (Transfer between listing category).
...	

**Annex C****Amendments to the Prospectus Rules sourcebook (PR)**

**This Annex comes into force on 1 October 2014.**

In this Annex, underlining indicates new text.

**3 Approval and publication of prospectus****3.1 Approval of prospectus**

Applying for approval

...

- 3.1.2A**     **R**     An applicant must take all reasonable care to ensure that any prospectus submitted for approval, for which it is responsible, contains:
- (1)     the necessary information as required under section 87A of the Act; and
  - (2)     the information items required in Annexes I to XVII and Annexes XX to XXX of the PD regulation, as appropriate to its application.
- 3.1.2B**     **R**     An applicant must take all reasonable care to ensure that any prospectus submitted for approval for which it is responsible is, to the best of its knowledge, in accordance with the facts and contains no omission likely to affect its import.

...

Financial Conduct Authority



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