

## Regulator Assessment: Qualifying Regulatory Provisions

**Title of proposal:** UKLA Technical Note - UKLA/TN/408.1 Eligibility of closed-ended investment funds

**Lead regulator:** FCA

**Date of assessment:** March 2017

**Commencement date:** Guidance finalised November 2015

**Origin:** Domestic

**Does this include implementation of a Cutting Red Tape review?** No

**Which areas of the UK will be affected?** National

### Brief outline of proposed new or amended regulatory activity

Companies listed on the Official List (and typically admitted to the London Stock Exchange's Main Market) are subject to a number of rules when joining the market, as well as continuing obligations governing conduct, disclosure rules on an ongoing basis and on an ad hoc basis when they issue further securities. The rules are set out in the FCA's Listing Rules, Prospectus Rules and Disclosure and Transparency Rules. There are additional directly applicable requirements set out in European regulations, notably the Market Abuse Regulation (MAR).

The FCA's UK Listing Authority Department (UKLA) publishes Technical Notes and Procedural Notes, which are short guidance notes intended to provide additional clarity to listed companies and their advisers as to how the FCA interprets provisions in these rulebooks. The FCA typically issues these when it has received a number of questions on the same topic, or other market feedback. The guidance provided in these notes is new guidance, which was subject to public consultation and finalised in November 2015. The objective of this new guidance is to clarify our rules and help firms to have a better understanding about application of those rules.

Technical Note 408.1, published in November 2015 in Primary Bulletin 12, provides guidance to premium listed, closed-ended investment companies in relation to assessing eligibility of a new fund seeking listing. The guidance clarifies the distinction between investment funds which may seek eligibility under Listing Rule 15, and trading companies which should consider listing under Listing Rules 6 or 14. The guidance discusses key factors which the FCA considers in relation to eligibility applications under Listing Rule 15, including spread of investment risk to provide investors with diversified exposure to assets, trading activity (which would typically be more suited to a trading company than an investment fund) and financing arrangements characteristic of investment companies. Technical Note 408.1 serves only to provide guidance

on the existing Listing Rules for companies seeking new listings and does not impose any new or additional requirements on new or existing companies.

**Which type of business will be affected? How many are estimated to be affected?**

The guidance is only relevant to the approximately 300 closed-ended investment companies with a premium listing on the Official List. In practice, the guidance will only be relevant to new closed-ended investment companies seeking eligibility for listing under Listing Rule 15. It is difficult to reliably quantify the number of companies who might seek such eligibility in a given year. In the calendar year 2016, an estimated 30 closed-ended investment companies sought eligibility under Listing Rule 15.

Price base year	Implementation date	Duration of policy (years)	Business Net Present Value	Net cost to business (EANDCB)	BIT score
2015	November 2015	10	-0.028	0	0

**Please set out the impact to business clearly with a breakdown of costs and benefits**

Note – for all cost estimates below we have assumed the changes will be applied by experienced compliance staff at an estimated rate of £48/hour. The 2016 Robert Half salary guide estimates that a compliance manager in the risk and compliance function of a financial services company based in London earns between £70,000 and £104,000 per annum. Based on working 8 hours per day for 260 days each year our rate equates to £100,000 per annum and is therefore considered a suitably prudent figure for the purposes of our estimates.

*Familiarisation cost*

We expect that all of the approximately 300 closed-ended investment companies with a premium listing on the Official List would find it helpful to familiarise themselves with the three page guidance note, however as such companies are already eligible, listed companies, no further action would be required unless they sought to list additional lines of securities.

Although difficult to reliably quantify because the number of closed-ended investment companies seeking eligibility for a premium listing under Listing Rule 15 in a given year is variable, in the calendar year 2016, an estimated 30 closed-ended investment companies sought eligibility under Listing Rule 15, including 20 new companies and 10 existing listed companies seeking to expand the lines of securities which were listed.

For the approximately 300 closed-ended investment companies with an existing premium listing on the Official List who may find it helpful to familiarise themselves with guidance, we would expect that the note would take less than two hours to read, digest, and disseminate to any relevant members of staff, and, if necessary, update the relevant procedure to reflect the guidance. This is an estimate of the maximum amount of time it might take a company, as the two page note provides practical considerations in relation to three specific eligibility considerations under the existing rules<sup>1</sup>.

At the estimated rate of £48/ hour, the total estimated cost for all 300 closed-ended investment companies would be £28,800. If we consider the total cost for the estimated 30 companies who might seek eligibility in a given year, that cost decreases to £2,880.

---

<sup>1</sup> We arrived at the two hour estimate based on the following calculation. The three page technical note contains approximately 1350 words. The speed of reading technical text is 50-100 words per minute based on EFTEC (2013), "Evaluating the cost savings to business revised EA guidance - method paper" the time remaining to digest, disseminate the information and if necessary update the relevant procedures is based on our broader supervisory knowledge of how firms respond to our Technical Notes and also on supervisory conversations with firms about their procedures relating to this specific issue.

### *Ongoing cost*

We consider that this guidance creates no ongoing costs for business because the expectations set out in it are wholly inherent in the existing rules and add no new obligations to those rules for any firms. There is no cost to companies who already have a listing and have been found to be eligible under Listing Rule 15 and so the guidance does not impact them. Although difficult to reliably quantify, on a net basis we expect the guidance to make the application of the Listing Rules easier and quicker by providing companies with early clarity as to the FCA's application of the Listing Rules and the distinctions between the different eligibility pathways, thereby producing a cost saving for businesses.

### **Please provide any additional information (if required) that may assist the RPC to validate the BIT Score.**

The level of detail to which individual measures are scored is set to the nearest £100k. This means that where the total cost of measures is estimated at less than £50k they are scored as zero (both as EANDCB and BIT score) for reporting purposes.

Link to Robert Half salary centre

<https://www.roberthalf.co.uk/news-insights/salary-centre-2016>