

## Regulator Assessment: Qualifying Regulatory Provisions

**Title of proposal:** UKLA Technical Note: TN/701.2 Sponsors: Conflicts of interest

**Lead regulator:** FCA

**Date of assessment:** March 2017

**Commencement date:** November 2015

**Origin:** Domestic

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

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

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

#### *Sponsors*

The sponsor regime is a key feature of the FCA's Premium Listing regime. In certain situations companies with or applying for a Premium Listing must appoint a sponsor (such as when a company is contemplating an IPO, or a significant acquisition or disposal of assets outside the ordinary course of business).

Once appointed, a sponsor's role is to guide and help ensure the company meets its obligations under the Listing Rules, the Disclosure Requirements and Transparency Rules. A sponsor also provides important assurances to the FCA in relation to the company, its systems and management.

All sponsors on the list of approved sponsors are formally approved by the FCA. Chapter 8 of the Listing Rules (LR8) contains the rules applicable to a sponsor. LR8 includes rules and guidance relating to the requirement for sponsors to identify and manage conflicts of interest that could adversely affect their ability to perform the sponsor function. In identifying conflicts sponsors need to consider circumstances that could create a perception in the market that a sponsor may not be able to perform its functions properly i.e. perceived conflict.

Sponsor firms can have a wide variety of business models. The sponsor list contains large investment banks, accountants, law firms, corporate brokers and independent advisory businesses. The extent to which conflicts of interest may arise for a sponsor varies widely across the sponsor population.

## Proposal

FCA technical note TN701.2 was an update of TN 701.1 and introduced additional guidance for sponsors around the approach we expect sponsors to take in relation to the identification of conflicts when dealing with sponsor services at a very early stage (because we include preparatory work in the definition of "sponsor services" so firms need to be alert to the point at which they begin to act as sponsor) or in circumstances where the service must be delivered urgently (for example, out of normal business hours), recognising that these particular circumstances can present sponsors with practical challenges around the comprehensiveness of their checks.

### The new guidance

For the purposes of considering the impact of the new guidance the proposals can be split into two elements:

1. Clarification that sponsors must identify and manage conflicts even where the sponsor service is at a very early stage or must be performed urgently, and clarification of what is meant by 'reasonable steps'.

The guidance in TN701.1 begins by clarifying that sponsors must meet the requirements of LR8.3.7AG-LR8.3.12AG (the sponsor conflicts of interest rules and guidance in LR8) even where a sponsor service is at a very early stage or where the service must be performed urgently. The guidance goes on to explain that we recognise that there are practical challenges to performing conflicts assessments prior to performing sponsor services in these circumstances.

The guidance then explains that where sponsor services are performed at a very early stage in a transaction, or performed urgently or out of normal office hours, reasonable steps may involve less extensive conflicts checks, on a temporary basis. The guidance states that we would then expect full conflicts checks to be performed as soon as practicable thereafter.

### 2. Training and guidance

The guidance explains that, in relation to a sponsor's obligation to ensure individuals are appropriately trained to enable them to identify, escalate and manage conflicts of interest, we expect a sponsor to ensure that relevant employees are aware of when they may be providing a sponsor service and of the arrangements in place where sponsor services are performed urgently or out of normal office hours.

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

The guidance applies to all sponsor firms. There were 46 sponsor firms approved by the FCA at the time the guidance was finalised. Premium listed companies are not required to retain a sponsor at all times; sponsors are appointed only in relation to certain transactions or situations where the listing rules require their guidance to be obtained.

Price base year	Implementation date	Duration of policy (years)	Business Net Present Value	Net cost to business (EANDCB)	BIT score
2015	2015	10	-0.10	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.

Estimates of the number of times firms will apply the sponsor conflicts rules are based on the judgement of the Sponsor Supervision team and are considered prudent.

Estimates of the time taken to implement and apply the proposals are based on the Sponsor Supervision team's experience of supervising firms and of making process changes.

### Familiarisation cost

We expect that this guidance resulted in two experienced compliance team members at each of the 46 sponsor firms reading the technical note and making minor amendments to their sponsor procedures to refer to the technical note and to adjust control documents to ensure that the provisions within the guidance were reflected. These sponsors were also likely to have disseminated the guidance and any minor procedural changes to their deal and compliance teams and may have conducted high level, informal training. We therefore estimate the costs of the guidance to have resulted from the application across 46 firms of 2 experienced compliance team members spending 8 hours each effecting the changes in procedures and communicating changes to staff members at a cost rate of £485/hour. We expect training was included within existing staff briefing sessions and as such the additional costs are considered to be of minimal significance .

### Ongoing cost

The guidance did not introduce any new requirements and in many cases we expect that sponsors already take reasonable and proportionate steps to identify conflicts at an early stage in a sponsor service or when asked to perform sponsor services urgently. Assuming sponsors were already complying with their obligations we expect the cost to be zero and the ongoing effect of the guidance to be a net reduction in costs, as the extent of conflict checks performed at an early stage will be less extensive. However, being prudent and ignoring the extent of checks already being performed by sponsors, we might assume that sponsors will apply the guidance on an ongoing basis when identifying conflicts of interest in the limited circumstances contemplated by the guidance. On average we expect that firms apply thought to this guidance a handful of times each year (4 times). We expect the consideration of the guidance, and any associated procedural steps to take very little time (1 hour). The estimated cost is therefore derived by applying this total 4 hour time cost at an estimated rate of £485/hour across the 46 firms likely to be impacted.

We expect the ongoing training costs to be negligible. This is because we expect sponsors to build this into annual update training sessions that they would already have held.

### Ongoing benefit

Prior to the guidance, some sponsor firms considering the identification of sponsor conflicts at an early stage may have attempted to perform more extensive conflict checks or may have sought guidance on the appropriate approach to take in the circumstances. Although difficult to reliably quantify, we expect the benefit of sponsors being clear that they are able to carry more proportionate conflicts checks in these exceptional circumstances would outweigh the additional costs of firms performing early stage conflict checks where they had not previously..

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

Link to Robert Half salary centre

[https://s3-us-west-2.amazonaws.com/cfn-itmcc-izs3bucket-prod-izdbms3bucket-x9xmcuenero/UK/2014/RobertHalf\\_UK\\_Salary-Guide-2015.pdf](https://s3-us-west-2.amazonaws.com/cfn-itmcc-izs3bucket-prod-izdbms3bucket-x9xmcuenero/UK/2014/RobertHalf_UK_Salary-Guide-2015.pdf)