

UKLA Technical Note

Related party transactions – Modified requirements for smaller related party transactions

Ref: UKLA / TN / 308.42 Guidance Consultation

LR 11

LR 11.1.10R(2)(b) requires a premium listed company to obtain a written confirmation from a sponsor that the terms of the proposed transaction or arrangement with the related party are fair and reasonable as far as the shareholders of the premium listed company are concerned. These letters are provided to the FCA as regulator and our remit is set out in statute. We requested to see this confirmation, LR 1.3.1R provides that this confirmation should be provided to us as soon as possible. We would only use these letters this confirmation in the exercise of our statutory functions, and it is inappropriate and unnecessary to include language in a confirmation which seeks to limit our use of them. We also believe it is unnecessary to include third party disclaimers, as the purpose for which they are would be provided to the FCA is clear.

The confirmations provided by the sponsor under LR 11.1.10R(2)(b) are an important shareholder safeguard. Unlike with a larger transaction, shareholders do not have the opportunity to vote on smaller transactions. We rely on the adviser sponsor to undertake sufficient work to come to a considered opinion, and there is no need to explain in the letter confirmation how that opinion was reached. On the contrary, we do not accept such an expect to see explanations of the basis of preparation, as it could be seen to limit the validity of the opinion confirmation. Instead a clean confirmation, tracking the rule wording used in LR 11.1.10R(2)(b), should be given.

Example wording for this confirmation might be:

'[w]e confirm in accordance with Listing Rule 11.1.10R(2)(b) that that the terms of the proposed transaction or arrangement with [related party], as described in [reference to the letter setting out details of the transaction], are fair and reasonable as far as the shareholders of [listed company] are concerned'.

Example wording for LR11.1.10R(2)(c) could be:

'[i]n accordance with LR11.1.10R(2)(c), we hereby undertake to include details of the transaction or arrangement referred to in the letter from [sponsor/independent adviser] dated [date] in our next published annual accounts, including, if relevant, the identity of the related party, the value of the consideration for the transaction or arrangement and all other relevant circumstances'.

Where this wording is used (unchanged and not caveated or disclaimed elsewhere) then we are likely to accept it for the purposes of LR11.1.10R(2) (b) and (c). The details of the transaction as required by LR11.1.10R(2)(a) can be included within either of these letters.

Please note we will still need to have discussions about the substance of the transaction contemplated, and the correct classification under the class tests, before the final letters are submitted. We would also like to take the opportunity to highlight that a signed, final letters confirmation in agreed form, including agreed class tests, needs to be submitted to us in place before the issuer premium listed company enters into the relevant transaction. We would be unlikely to accept LR11.1.10R letters on matters where the issuer has already committed itself.