

## UKLA Technical Note

# Sponsor transactions – Adequacy of resourcing

Ref: UKLA / TN / 709.2 Consultation

LR 8

A sponsor is required at all times to demonstrate it is **competent** to perform sponsor services and it has **appropriate systems and controls** in order to carry out the role of sponsor in accordance with LR 8 (LR 8.6.6R). Since each sponsor is different and each sponsor transaction gives rise to different issues, the onus is on sponsor firms to assess their ability to act each time they are considering an appointment to act as sponsor. LR 8.6.7R, LR 8.6.12G and LR 8.6.13G will be relevant to sponsors in this regard.

**Competence** In assessing the competence of a sponsor for the purposes of LR 8.6.7R, the UKLA will have regard to, amongst other things, the matters set out in LR 8.6.9AG. Prior relevant experience of providing sponsor services remains of paramount importance in this context and the UKLA is of the view that the relevance of experience should be measured by reference to a number of factors including how recently the relevant sponsor services were provided and the extent to which those services are congruent with the range of services a sponsor typically provides. The UKLA acknowledges that sponsor experience resides in individuals at firms as well as the firm itself and that there are various methods by which such experience can be stored and transmitted within a firm, including through training or knowledge management systems. Whether or not a firm has prior sponsor experience is an important consideration in relation to whether or not the firm meets the competence criteria of LR 8.6.5R(2).

**Systems and controls** LR 8.6.12G makes clear that a sponsor is generally regarded as having appropriate and effective systems and controls where, amongst other things, it can ensure that it has appropriate staffing arrangements for the performance of sponsor services with due care and skill and the appropriate supervision of those staff. LR 8.6.13G recognises that the nature and extent of the systems and controls which a sponsor will need to maintain depends on factors including the nature, scale and complexity of its business, the volume and size of the transactions it undertakes and the degree of risk associated with them.

Therefore, when considering whether staffing and supervisory arrangements in relation to a sponsor service are appropriate, important factors will be whether the firm has experience relevant to the proposed sponsor service and how such experience will be applied.

**Practical considerations** Although listed companies, or applicants, are most likely to appoint advisers with experience relevant to the type of transaction contemplated, there could be instances where sponsors are approached to carry out sponsor services in the following circumstances (please note this list is not exhaustive):

- for companies in sectors where the sponsor firm or the staff allocated to the transaction have little to no relevant or recent experience;
- where existing staff are overstretched and therefore at risk of not carrying out services with due skill and care; or
- at a time where the firm may be exposed to a key man risk in relation to sponsor expertise, for instance because key or experienced individuals have left the firm.

A sponsor which historically provides sponsor services in respect of a particular size of transaction or particular types of transactions, for example transactions to which LR 15 or LR 16 apply (rather than trading company transactions), and wishes to take on a transaction of a different type, size or complexity, ought to consider whether it has the appropriate systems and controls in place to do so. The sponsor should ensure that it can appropriately staff the transaction so that it is performed with due care and skill. It should also ensure it has the relevant experience required by LR 8.6.7R; in other words that it is competent to provide that sponsor service. This is particularly important where the sponsor may not have undertaken a transaction of this type or nature within a recent timeframe since experience can become less relevant with time.

***Sponsor Supervision's approach*** The Sponsor Supervision team monitors carefully the transactions to which sponsors are appointed. Exceptionally, where we are of the view that firms have limited or no relevant experience in carrying out the type of transaction being submitted to the UKLA, or in working with a listed company in a certain sector, Sponsor Supervision have expedited discussions with the sponsor as to the arrangements they have put in place to ensure they are able to comply with LR8 requirements as regards appropriate staffing.

Sponsors are strongly encouraged to assess carefully whether or not they have relevant experience and the appropriate systems and controls to carry out sponsor services in accordance with LR 8.6.7R, LR 8.6.12G and LR 8.6.13G. Sponsor Supervision considers that, should a mandate be accepted in circumstances where a sponsor cannot demonstrate sponsor competence in the relevant area or appropriate resource for the type of transaction, there is a risk to the integrity of, or market confidence in, the sponsor regime.

Sponsor firms should therefore contact the Sponsor Supervision team before accepting a sponsor mandate where they feel they may lack the necessary staff or relevant expertise in a certain area to complete a sponsor transaction. The team will continue to monitor sponsor appointments and will be prepared to take action to require firms to review their ability to act on transactions in circumstances where, in our view, the risks to the integrity of the sponsor regime are considered high.

It is not the intention of the UKLA to assess a sponsor's ability to comply with LR 8.6.5R and LR 8.6.6R on a transaction-by-transaction basis. However, sponsors should be aware of the possibility of an intrusive approach taken by the UKLA in this regard. The FCA's powers to suspend a sponsor's approval or to impose limitations or restrictions on the services a sponsor can provide are discussed in UKLA/TN/712.1 – Additional powers to supervise and discipline sponsors.