

08/12

Financial Services Authority

Sponsor Regime: A targeted review

December 2008



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This Policy Statement reports on the main issues arising from Consultation Paper 08/5 (*Sponsor regime – a targeted review*) and chapter 12 of Quarterly Consultation Paper 08/12 (Proposed amendments to LR: Sponsor regime) and publishes final rules.

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Copies of this Policy Statement are available to download from our website – www.fsa.gov.uk. Alternatively, paper copies can be obtained by calling the FSA order line: 0845 608 2372.

1 Overview

- 1.1 In March 2008, we published Consultation Paper 08/5: Sponsor regime – a targeted review (CP08/5). We stated that, although the proposals set out in the Consultation Paper were relatively minor, they should move the FSA further towards our long-term objective of more principles-based regulation.
- 1.2 In July 2008, we published the Quarterly Consultation Paper 08/12 (CP08/12). This proposed two additional amendments to the sponsor regime, relating to sponsor independence and the provision of information to us.
- 1.3 The consultation on the amendments to the sponsor regime was well received by respondents and we are pleased to have been able to work with market participants on the more substantive issues before and during the consultation. We appreciate the time and effort of those who responded to this consultation and also of those who were involved in the consultation process.
- 1.4 In this Policy Statement (PS), we summarise the feedback received in answer to the questions raised in CP08/5 and chapter 12 of CP08/12 and give our response to that feedback. We had 27 responses – mostly from sponsor firms, trade bodies and advisers to listed companies and the sponsor community – although there were also responses from an issuer and the London Stock Exchange.
- 1.5 Respondents supported most of our proposals. We therefore intend to implement the majority of them. However, respondents disagreed with our proposal to require an issuer to appoint an independent sponsor (as detailed in chapter 12 of CP08/12). So we do not intend to proceed with this proposal.
- 1.6 We have provided detailed feedback only on the substantive issues. We have implemented the straightforward proposals which received respondents' support and we do not provide detailed discussion on these. Our response to each issue is detailed in the shaded boxes of this PS.
- 1.7 The new rules will come into effect on 6 February 2009.

1.8 In making these rule changes we have considered our objectives as agreed with the Treasury in our capacity as the competent authority in respect of the functions referred to in Part VI of the Financial Services and Markets Act (FSMA). The rule changes are consistent with our proportionate and flexible regulatory regime, which aims to meet our statutory duty to have regard to the desirability of maintaining the competitive position of the UK and the principle that a burden or restriction imposed on a person should be proportionate to the benefits.

2 Feedback on the amendments to the Listing Rules

Introduction

- 2.1 This chapter sets out our feedback to the responses to CP08/5 and chapter 12 of CP08/12.

CP08/5: Sponsor regime – a targeted review

Scope of application of sponsor principles

- 2.2 The Listing Review introduced the Principles for sponsors in LR8.3. Since we introduced these Principles it has become apparent from our dealings with sponsors that it is not clear when the Principles apply. In CP08/5 we proposed that the Principles for sponsors in LR8.3 will only apply when a sponsor is required by LR8.2 (with the exception of the need to deal with us in an open and cooperative manner, and to deal promptly with enquiries raised by us, which will apply at all times). So the Principles will not apply simply by virtue of the fact that a firm is an approved sponsor.
- 2.3 We asked:
- Q1: Subject to the exceptions set out above, do you agree that the Principles for sponsors should only apply when a sponsor is required by LR8.2?
- 2.4 Most respondents supported the proposal, with one pointing out that, since there is no requirement in the Listing Rules (LR) for an issuer to retain a sponsor, it was right that the Principles should not apply if the sponsor is giving ad hoc advice. A small minority of respondents disagreed; one respondent said that if a sponsor is appointed to advise on a matter not set out in LR8.2 and is actively engaged with the issuer, then the Principles should apply to such advice.

Our response: We proposed limiting the application of the Principles after careful consideration. Our view is that the Principles should apply to situations which pose the greatest risk to our statutory objectives. If an issuer is concerned about the advice that it has received from a sponsor outside of situations in LR8.2, there are other legal solutions available to it. In addition, as detailed in this PS, we will be introducing guidance that will enable us to take into account the quality of advice given by sponsors, outside of situations in LR8.2, where such advice is relevant to a sponsor's competence.

We will proceed as proposed.

Sponsor competence

- 2.5 In CP08/5 we proposed removing the Suitably Experienced Employee (SEE) regime as a way of assessing sponsor competence, and replacing it with less prescriptive guidance which focuses on a firm's prior relevant experience in providing sponsor services and other necessary skills, knowledge and expertise. We proposed further guidance making clear that we may take into account the performance of a sponsor firm, or new sponsor applicant, on giving advice to Listed companies or new applicants on the LR and Disclosure Rules and Transparency Rules (DTRs), outside of situations in LR8.2.

We asked:

- Q2: Do you agree that the demonstration of a firm's competence is key to retaining the integrity of the sponsor regime? If not, how do you believe the integrity of the regime should be maintained?
- Q3: Do you agree that LR8.6.7 should be retained in substance? If not what amendments do you think are required and why?
- Q4: Do you agree that the matters set out in LR8.6.8 (as revised) can be used by firms to demonstrate their competence? If not, what other factors do you think are relevant?
- Q5: Do you agree that the experience of firms in advising Listed companies or new applicants on the LRs and DTRs, in circumstances other than in providing sponsor services, should, where relevant, be taken into account when assessing sponsor competence? If so, do you agree that we should, where relevant, also take into account the quality of the advice if it is detrimental to sponsors or sponsor applicants?
- Q6: Do you agree that expertise in advising companies on the matters set out in LR8.2 is critical to demonstrating sponsor competence? If not, how would you demonstrate a firm's ability to provide robust sponsor declarations and provide expert advice to issuers?

Q7: Do you agree that the SEE provisions should be deleted and that the responsibility for appropriate staffing and supervision of sponsor activity should be placed on a sponsor firm's management?

- 2.6 The feedback we received indicated general agreement with our premise that the demonstration of a firm's competence is key to retaining the integrity of the sponsor regime. There was also general agreement that we should retain LR8.6.7 (the existing rule relating to sponsor competence) in substance.
- 2.7 Our proposal to delete the SEE provisions and to place the responsibility for appropriate staffing and supervision of sponsor activity on a sponsor firm's management was very well received. There was the proviso from one respondent that smaller sponsor firms should not be over-burdened by the new regime or be challenged because they continue to rely on named individuals.
- 2.8 There appeared to be widespread concern about the experience and expertise that we will look to reside within a firm for that firm to demonstrate competence. Many respondents asked us to be explicit in LR8 that we will consider a wide range of corporate finance experience over and above experience gained while acting in the capacity of a sponsor.
- 2.9 A majority of respondents supported a widening of the assessment of a sponsor or sponsor applicant's competence to include the quality of advice given by firms, outside of situations in LR8.2. One respondent commented, however, that a sponsor firm should not be assessed on the basis of specific advice, but on how the firm acts on an ongoing basis. In other words, if advice is to be taken into account it should be in the context of the quality of historic advice given by the firm and the competence of a sponsor firm as a whole. Another respondent felt that there is the potential for a firm to provide, in good faith, advice that, with the benefit of hindsight, could be seen to have been mistaken due to the dynamic nature of markets, and that this should be a relevant factor in our considerations. Another respondent also asked that, if we deem advice given by a sponsor firm to be poor or inappropriate, the relevant firm should promptly be made aware of the issue and given the opportunity to respond.

Our response: We will proceed with our proposal to remove the SEE regime and replace the detailed guidance in LR8.6.8 and LR8.6.9 with less prescriptive guidance which focuses on a firm's prior relevant experience in providing sponsor services and other necessary skills, knowledge and expertise. However, we recognise the diverse nature of the sponsor community and that it may be appropriate for some sponsor firms to continue to rely on named individuals.

While arguably implicit in LR8.6.8(2) (now LR8.6.9A(2)) (through reference to 'necessary skills knowledge and expertise'), we accept that it would be helpful to make it explicit in the LR that we will take wider corporate finance experience into account when assessing competence. To achieve this we have added a third criteria to LR8.6.8 (now LR8.6.9A): prior corporate finance experience. As we detailed in CP08/5, prior sponsor experience will remain paramount to an assessment of competence.

We will proceed with our proposal to widen the assessment of a sponsor or sponsor applicant's competence to include the quality of advice given by firms, outside of situations in LR8.2. We believe that since establishing a designated sponsor supervision team in the FSA, we have improved the communication with sponsor firms and we expect to maintain an open dialogue with our sponsor community.

- 2.10 We proposed to retain the annual requirement for a sponsor to confirm that it continues to meet the approval criteria as sponsor competence is an ongoing requirement.

We asked:

Q8: Do you agree that we should retain the annual requirement for a sponsor to confirm that it continues to meet the approval criteria? If not, what sort of comfort do you believe should be sufficient to retain sponsor approval?

- 2.11 The vast majority of respondents agreed that we should retain the annual requirement for a sponsor to confirm that it continues to meet the approval criteria. However, there appeared to be a widespread misunderstanding about the annual confirmation and our proposed move away from an annual review to a regular review.

Our response: We will retain the annual requirement for a sponsor to confirm that it continues to meet the approval criteria. We provide more information on the relationship between the annual confirmation and the regular review on page 15 of this PS.

Sponsor systems and controls

- 2.12 CP08/5 proposed that greater emphasis should be placed on sponsor systems and controls, as part of the move away from the SEE regime. By placing greater emphasis on systems and controls being appropriate (or, in other words, fit for purpose), our proposal was to rely on each sponsor firm's management to ensure that sponsor services are being appropriately conducted without imposing further managerial responsibilities on named individuals. We proposed changing the requirement, set out in LR8.6.5(3), for a firm to have 'adequate' systems and controls in order to meet the criteria for approval as a sponsor, to 'appropriate' systems and controls.

- 2.13 In view of the increased focus on systems and controls, CP08/5 proposed the introduction of additional guidance to that contained within LR8.6.12 and LR8.6.13:

- systems and controls to ensure staff providing sponsor services receive appropriate guidance and training;
- appropriate staffing when conducting sponsor services; and
- guidance to encourage firms to assess the risks associated with sponsor services when considering the appropriateness of their systems and controls.

- 2.14 We asked:

Q9: Do you agree with the proposal to move from 'adequate' to 'appropriate' systems and controls as a requirement for sponsor approval?

- 2.15 The vast majority of respondents agreed with the proposal. Only one respondent disagreed outright with the proposal, but didn't comment on it. Some firms preferred the more positive connotations of 'appropriate' as opposed to 'adequate'. One respondent felt 'appropriate' systems and controls should reflect the nature, scale and complexity of a firm's business, the number and size of transactions and the degree of risk associated with its sponsor transactions. Another respondent asked if a heightened standard was proposed by the new wording, or was the difference between 'adequate' and 'appropriate' no more than the introduction of the additional matters set out in LR8.6.12?

Our response: Once the SEE regime is removed firms will need to focus on their systems and controls to ensure that they enable the firm to provide sponsor services with due care and skill. In replacing 'adequate' with 'appropriate', we intended to move away from a perceived expectation that a firm's systems and controls could be barely sufficient to comply with LR8, to a consideration of systems and controls that are suitable or proper to enable a sponsor to comply with LR8. Our existing guidance recognises (and will continue to recognise) that the nature, scale and complexity of a firm's business will determine the nature and extent of its systems and controls. We believe that most sponsor firms are already meeting the new standard.

We will proceed with this proposal.

- 2.16 As detailed above, one of the amendments proposed to LR8.6.12 was the proposal for systems and controls to ensure that sponsor staff receive appropriate guidance and training.

- 2.17 We asked:

Q10: Do you agree that appropriate controls to ensure employees receive proper guidance and training in carrying out sponsor services will help sponsors comply with LR8.6.5(3)?

Q11: Do you agree that appropriate staffing to ensure proper performance of sponsor services will assist sponsors in complying with LR8.6.5(3)?

- 2.18 Generally respondents agreed with these proposals, though some asked what was meant by 'appropriate' and 'proper' in this context. It was pointed out that the amount and type of training which will be required will vary across firms and therefore we will need to be careful as to the application of this guidance. In respect of 'proper training' one respondent suggested that, in addition to formal training, highly relevant training will be gained from working on transactions involving the LR or DTRs (whether or not in a sponsor role) or other complex transactions.

Our response: We appreciate that 'appropriate' and 'proper' are terms which can be open to interpretation. Our intention was to ensure that firms provide their staff with the necessary guidance and training to enable them to provide sponsor services with 'due care and skill'. In LR8.6.12(7) we have replaced 'proper' with a reference to 'due care and skill' accordingly.

2.19 We asked:

Q12: Do you agree that we should retain the other factors in LR8.6.12 and LR8.6.13 with the suggested amendments?

2.20 The response was almost entirely positive. One respondent did not agree with the proposed addition to the guidance in LR8.6.13G which would require a sponsor to consider the ‘degree of risk associated with the transactions it undertakes’ when considering the nature and extent of the systems and controls a sponsor will need to maintain. It was thought the guidance in LR8.6.13G is already comprehensive and the perception of risk is too subjective.

Our response: As the majority of respondents supported the proposal we will make the changes as proposed. In relation to the objection to including an assessment of risk in LR8.6.13, arguably all of the matters set out in LR8.6.13(2)–(5) are already encompassed by LR8.6.13(1). However, the addition of a reference to risk provides more granular guidance for sponsor firms that we hope is helpful. While we accept that the assessment of risk can sometimes be subjective, before providing sponsor services we consider it essential that a sponsor firm considers the degree of risk posed to the firm from providing such services and the potential need to allocate additional resource, oversight and any enhanced procedures to ensure that it is able to provide sponsor services with due care and skill.

2.21 The proposals of CP08/5 in relation to sponsor independence and conflicts management are discussed below. Relevant here, though, is the proposed introduction of LR8.6.12A (now LR8.6.13A) which complements the existing guidance under LR8.6.12 and aims to address specific concerns in relation to identifying and monitoring conflicts and the training of staff and maintenance of records relating to conflict management. LR8.6.12A (now LR8.6.13A) is therefore guidance on what systems and controls would be considered appropriate for a sponsor to have in place in relation to conflicts of interest.

2.22 We asked:

Q13: Do you agree we should give more specific guidance on identifying and managing conflicts given the proposals for the introduction of a new LR8.3.6ff? If so, do you agree that the proposals set out in LR8.6.12A provide useful guidance to sponsor firms?

2.23 The majority of respondents were supportive of this proposal, recognising that, due to the disparate nature of the sponsor community (with diverse controls and processes tailored on a firm by firm basis), more specific guidance may be difficult and that there could be consultation with us on a case-by-case basis should the firm feel it necessary. One respondent did not think there was a current problem that required the introduction of such guidance.

Our response: Recognising the diverse nature of the sponsor community we consider, on the whole, the introduction of LR8.6.12A (now LR8.6.13A) will provide useful guidance to sponsor firms.

We will implement the changes as proposed.

2.24 In conclusion to this subject of systems and controls we asked:

Q14: In order to perform sponsor services in a competent manner are there any other systems and controls which you believe are important?

2.25 Most respondents did not propose any additional systems and controls. One respondent proposed an additional control of an internal review by a firm's compliance team to confirm advice given by staff providing sponsor services was appropriate.

Our response: While we are grateful for this suggestion we do not consider it practical for us to suggest that a sponsor's compliance function should pre-clear or review all advice given. However, a firm is not precluded by LR8 from introducing additional controls should it consider it beneficial.

We will implement the changes as proposed.

Sponsor independence and conflicts management

2.26 CP08/5 included proposals to modernise our approach to sponsor independence, by focusing on procedures for identifying and managing conflicts. The purpose of this requirement is to ensure that sponsor firms are able to perform properly their functions under LR8 and to maintain market confidence in the sponsor regime. The modernised approach we proposed aimed to support our overall drive towards more principles-based regulation.

2.27 We proposed to replace our current detailed threshold requirements under LR8.3.6–8.3.7 'Principles for sponsors: independence', by the proposed rules LR8.3.7Aff: 'Principles for sponsors: identifying and managing conflicts'. The proposed rules place obligations on sponsors: to take all reasonable steps to identify conflicts (including conflicts that could create a perception in the market that they may be precluded from acting in a proper manner); to put in place and maintain effective organisational and administrative arrangements to manage any conflicts; and not to act where a conflict can not be managed.

2.28 We asked:

Q15: Do you agree that the proposed requirements for sponsors to identify and manage conflicts are an appropriate method of ensuring that sponsors perform their role in a proper manner?

Q16: Do you agree that appropriate conflict management arrangements should be sufficient in most cases to enable a sponsor to act where its group has more than one interest in a transaction?

Q17: Do you agree that the detailed thresholds contained in LR8.3.6 should be removed and replaced with a high level principle and guidance?

2.29 The feedback we received was broadly supportive of the proposals contained in CP08/5.

- 2.30 The vast majority of respondents agreed that the proposed requirements for sponsors to identify and manage conflicts are an appropriate method of ensuring that sponsors perform their role in a proper manner. Some respondents expressed their concern as to how we would implement this principles-based approach in practice.
- 2.31 All respondents agreed that appropriate conflict management arrangements should be sufficient in most cases to enable a sponsor to act where its group has more than one interest in a transaction. Some respondents asked us to provide guidance and/or specific examples of the type of situation or conflict that in our view a sponsor will not be able to manage.
- 2.32 Respondents generally agreed that the detailed thresholds contained in LR8.3.6 should be removed and replaced with a high level principle and guidance. Nevertheless we also received feedback asking for guidance or further clarification on what we would typically consider to constitute a conflict of interest. There was also feedback expressing the concern that removing the detailed thresholds we currently use to assess independence creates the risk of losing consistency of application across firms and transactions, and that a principles-based approach in this area is open to abuse for commercial gain.

Our response: Conflicts of interest need to be considered and addressed on a case by case basis but the standard achieved in doing this should be consistent across sponsor firms. While the benefit of our proposed more principles-based approach is that the proposed new rules are easily adaptable to the variety of firms on the list of sponsors and the variety of situations that may arise, we realise that it will require careful supervision by us to ensure consistent practical implementation.

We accept that this is a difficult area and that sponsors may benefit from more practical guidance. We will endeavour to provide this assistance through our day to day contact with sponsor firms and via information in our List! publication.

We will implement the proposed requirements for sponsors to take all reasonable steps to identify and manage conflicts.

- 2.33 We also asked:
- Q18: Do you agree that not all conflicts can be managed and that providing sponsor services in those cases could have an adverse impact on market confidence in the sponsor regime?
- Q19: Do you agree that when identifying conflicts of interest a sponsor should consider those conflicts that could create a perception in the market that it may not be able to perform its functions properly?
- 2.34 Respondents were broadly in agreement that not all conflicts can be managed and that providing sponsor services in those cases could have an adverse impact on market confidence. A minority of respondents believe that all conflicts can be managed.
- 2.35 Even though a minority of respondents believes that all conflicts can be managed, all respondents recognise that under some circumstances a perception of conflict may

require a sponsor to decline to act. Some responses we received expressed the concern that an insurmountable perception of conflict only exists in exceptional circumstances.

Our response: We are encouraged that most respondents agree with us that not all conflicts can be managed.

We will implement the proposals as detailed in CP08/5.

2.36 We also asked:

Q20: Do you agree that disclosure in general is not an appropriate method of conflicts management for sponsors given a sponsor's regulatory obligations set out in LR8.3.1(1) and (2)? If you consider that disclosure may be an appropriate method of conflicts management, given the different objectives of the sponsor conflict provisions, please provide details of how disclosure would be used in this way.

2.37 The vast majority of the respondents believed that disclosure can be an appropriate method of managing a conflict, as one of a package of other actions. These respondents agree that, while it may be a helpful incentive to consider potential conflicts, disclosure of the existence of a conflict does not by itself constitute management of the conflict.

Our response: Given the support of the vast majority of respondents, we will proceed with our proposal.

Marketing of new applicants

2.38 CP08/5 proposed two alternative changes to LR8.4.5-6, the rules relating to the marketing of equity shares in a new applicant which are based on former London Stock Exchange rules designed to prevent sponsor firms giving preferential treatment to group companies or closely connected persons. We felt that the rules were no longer necessary due to the way that offers are now structured. The first proposal was to delete the provisions in their entirety. The second proposal was to delete LR8.4.5(1), on the basis that allocation practices render this rule redundant and also on the basis that the Principle for sponsors on identifying and managing conflicts should, when applied, require sponsors to consider the effect of allocations on their ability to act as sponsor. This would leave the disclosure-based obligations set out in LR8.4.5(2) and (3), although we stated in CP08/5 that we were reluctant to impose an obligation on sponsors to disclose information in what is likely to be a Listed company document or announcement.

2.39 We asked:

Q21: Should LR8.4.5-6 be deleted in their entirety?

Q22: Alternatively, do you believe that the disclosure requirements in LR8.4.5(2) and (3) provide useful investor protection?

- 2.40 The vast majority of respondents agreed that the requirements of LR8.4.5-6 are rendered outdated because of the way offers are now structured, namely by book building. A small number of respondents felt that, although LR8.4.5(1) should be deleted, the disclosure requirements in LR8.4.5(2) and (3) should be retained as they provide useful investor protection.

Our response: Since only a small number of respondents favoured retaining the disclosure requirements of LR8.4.5(2) and (3), and we were unable to find any announcements of this nature (which supports our view that the market has developed in a manner that makes these requirements redundant) we will delete LR8.4.5-6 in their entirety.

Record keeping

- 2.41 In CP08/5 we highlighted the importance of the maintenance of written records to enable us to properly supervise our sponsors, not only in relation to the provision of sponsor services but also in relation to the eligibility criteria. As part of the move to self-assessment by sponsor firms we proposed that firms retain records related to the identification, consideration and management of conflicts of interest. We also proposed that sponsors retain records related to their consideration of ongoing eligibility.
- 2.42 We asked:
- Q23: Do you agree that sponsor firms should retain records in relation to their compliance with LR8.6.5/6? Should this be subject to any time limit?
 - Q24: Do you agree that an annual confirmation should be retained? If so, do you agree that those confirmations should include details of the considerations the sponsor undertakes to reach its conclusions?
- 2.43 All but one of the respondents agreed with the proposal that firms should retain records in relation to their compliance with LR8.6.5/6. One respondent felt that it was not necessary to introduce an explicit requirement since sponsor firms would keep such records as part of their general systems and controls and, in particular, in order to make the annual confirmation. Among those respondents who agreed with the proposal, there was some concern that the requirement to retain records should not impose too onerous an administrative burden on sponsor firms. One respondent thought the requirement to keep records should be limited to the time of its approval as a sponsor firm and at the point of the regular review and the annual confirmation. Another respondent felt a better approach would be to allow each sponsor to maintain such records as it deems necessary to demonstrate its compliance with LR8.6.5/6.
- 2.44 All except one respondent also agreed a time limit should be imposed on the record retention requirement and almost all respondents proposed six years as an appropriate period, as this would be in line with the statutory limitation period and other FSA rules, in particular LR8.6.12(5).
- 2.45 Respondents generally agreed that the annual confirmation should be kept and it should include details of the considerations the sponsor undertakes to reach its conclusions.

There appeared to be some confusion, however, about exactly what firms would have to provide to us each year, as CP08/5 proposes to replace the existing ‘annual review’ with a ‘regular review’, while retaining the ‘annual confirmation’ of eligibility.

- 2.46 Regarding the annual confirmation, a number of respondents asked for guidance on the level of detail we would wish to see included. Several respondents suggested that the sponsor’s regular contact with the FSA should inform the decision as to how much detail should be provided in the annual confirmation.

Our response: We will implement the requirement that a sponsor firm should retain records in relation to their compliance with the approval criteria in LR8.6.5/6. As suggested by the majority of respondents, this requirement will be subject to a six year time limit.

As noted above, we will retain the requirement to provide an annual confirmation that a sponsor meets the eligibility criteria set out in LR8.6.5/6 and firms will be required to include details of the considerations the firm uses to reach its conclusions. However, we will not require a verbatim list of every consideration the firm has used. We welcome the suggestion that firms should liaise with us in advance to discuss the level of detail to be included in the annual confirmation.

To clarify the confusion over the regular review and annual confirmation requirements, following the implementation of the amendments to LR8 there will no longer be an annual review requirement. In proposing a ‘regular’ review, we are providing firms with flexibility to determine the frequency of their review and are taking into account the fact that firms do not necessarily conduct ‘end to end’ reviews of their sponsor functions, but often cover specific relevant areas in firm wide thematic reviews (for example, a firm may carry out a review of its conflicts management systems and controls).

We envisage situations where it may be possible for sponsors to provide an annual confirmation without carrying out a full annual review on a stand alone basis. Instead firms will have discretion over the extent of such a review and indeed whether or not they need to carry out a review in any given year. However, where a significant event takes place for the sponsor firm (this may be, for example, a significant turnover of key staff or a significant change in the direction of the firm’s business or a reorganisation) we would expect the firm to carry out a review of their systems and controls at that point. We will endeavour to provide additional assistance in this area through our day to day contact with sponsor firms and via our List! publication.

Miscellaneous

Definition of sponsor service

- 2.47 We proposed a new definition to clarify the application of the sponsor regime so it is clear when the Principles apply and also that advice given or discussions entered into before the signing of an engagement letter are covered by the requirements of LR8 (including the Principles).
- 2.48 The majority of respondents did not comment on this proposal. One respondent objected to the definition, saying it was too wide since there is no qualification of

what a sponsor may be asked to do or who may request that a service be performed; furthermore there is no requirement for a sponsor to agree to perform a service which is requested.

- 2.49 The same respondent pointed out that, as drafted, LR8.3.1 seems to apply in relation to sponsor services and not only to the situations where a sponsor must be appointed as is the case currently. LR8.3.1 sets out the responsibilities of a sponsor, namely to provide assurance to the FSA when required and to guide the listed company in understanding and meeting its responsibilities under the LR and DTRs. At present the responsibilities only apply where a sponsor has been appointed under LR8.2 whereas the proposed wording extends these responsibilities to sponsor services generally.

Our response: The intention behind the definition of sponsor service was to clarify the scope of the Principles for sponsors and to make it clear that preliminary advice given or discussions entered into before an engagement letter is signed are covered by the requirements of LR8. We consider that entering into a formal agreement does not alone determine when a firm is providing sponsor services. We are aware that it is not unusual for negotiations on the form and content of the formal agreement, or engagement letter, to continue well into the life of the transaction, and after the sponsor has started to act. It is therefore artificial to determine that a sponsor is only providing sponsor services (and therefore subject to the Principles) after it has signed an engagement letter. We consider that advice given before such an agreement could be construed as sponsor services depending on the circumstances. We also consider that work undertaken by a sponsor prior to a determination of acceptance or rejection of a sponsor mandate is covered by the definition. It is our view that these determinations form an essential part of the role that sponsor firms play in maintaining confidence in the Official List.

We appreciate the concern that, as drafted, the definition inadvertently catches services offered in conjunction with sponsor services, and that a sponsor should not unilaterally be required to provide a service by virtue of the definition. We have dealt with these concerns by amending the definition to refer to LR8.3.1 and LR8.4, as these rules set out the role and responsibilities of a sponsor, and added a proviso to the definition. We have also made it clear that, in situations where a sponsor is not ultimately appointed for whatever reason, including where the sponsor decides not to act, any preparatory work undertaken by the sponsor is included in the definition of sponsor services.

We do not believe that it is necessary for the definition to specify who may request that a service be performed since the definition is referenced to LR8.2 which is clear in its application to a company with, or applying for, a primary listing of its equity securities.

In relation to the application of LR8.3.1, we agree that LR8.3.1(1) (providing assurance to the FSA that the responsibilities of the listed company or applicant under the listing rules have been met) should be restricted to situations where a sponsor is appointed pursuant to LR 8.2.1. We will implement the proposal with this minor amendment.

CP08/12: Proposed amendments to the Sponsor regime

- 2.50 Two additional further amendments to the sponsor regime were proposed by CP08/12. These related to sponsor independence and provision of information to the FSA.

Sponsor independence

- 2.51 We proposed introducing a requirement for an issuer to appoint an independent sponsor. This proposal was designed to enable us to deny the approval of a circular or the admission of securities to the official list where the issuer has appointed a sponsor that is not independent.
- 2.52 We asked:
- Q17: Do you agree that in circumstances where a sponsor is not independent, the FSA should be able to deny approval of a circular or the admission of securities to the Official List?
- Q18: If not, how do you consider that the FSA will be able to provide an appropriate level of investor protection on transactions that require the appointment of a sponsor?
- 2.53 Most respondents either had no objection to us having this power or thought the power was already in place. However, other respondents felt very strongly that, while there was no objection to us having the veto power in principle, the method of achieving this was not acceptable as the onus would be switched from the sponsor to the issuer to confirm the sponsor's independence, and that was either unreasonable or unworkable.
- 2.54 Respondents pointed out that an issuer may not be fully aware of the operations of its sponsor and therefore not able to identify potential conflicts of interest. Additionally it may not be feasible for an issuer to verify that any conflicts, if and when they have been identified, have been managed appropriately. In the view of these respondents, an issuer should be entitled to rely on the sponsor giving independent advice, particularly since the issuer pays a fee to the sponsor with the expectation that, should there be any conflicts, they will be properly managed. Furthermore, in the event we exercised our power to refuse to approve a circular or admit shares to the Official List, the concern would be that we would be penalising an issuer for something that is not necessarily within its control and this could have a potential adverse impact on investors and other market participants. It was argued that if issuers were unable to meet their planned timetables as a result of us denying approval of the relevant document, this would introduce a serious risk of making the UK market less attractive for issuers, as it would introduce an element of uncertainty which issuers may be forced to mitigate through the appointment of more than one sponsor, adding to the cost of a transaction.
- 2.55 In answer to Q18, a respondent considered that, if a sponsor is found to be in breach of the LR because it is not independent, the sponsor itself should be held accountable.

2.56 Another respondent pointed out that it was not aware of an instance where an issuer insisted on the acceptance of a circular or admission where we had indicated material concerns about the independence of the sponsor, and in this respect an additional power was not necessary as there had not been a market failure. It was argued that since the current listing regime places full responsibility on issuers to ensure the accuracy and completeness of circulars and other public documents, in the event of any failure to fully and properly disclose any risks to investors, the issuer is already responsible for the consequences. Thus the proposals would not necessarily lead to better regulation but would inject additional cost and disruption into the process.

Our response: We sought to implement this proposal so we would have a clear power to refuse to approve a circular or admit securities to the Official List if we believe that a sponsor is not independent. However, having considered the responses, we have decided not to proceed further with these proposals. In arriving at this conclusion we have taken into account the following factors: sponsor firms have, to date, not ignored our serious concerns about a sponsor's independence; we are conscious that the proposal may lead to increased cost and disruption to the issuer which may be disproportionate in the context of the likelihood of the risk crystallising; we propose to achieve the same aim (of preventing a sponsor from acting when not independent) through other means such as dialogue with a sponsor and, if necessary, enforcement action should a sponsor ignore our serious concerns. We are encouraged by the strength of response which gave overwhelming support for us having the power to stop a sponsor from acting if not independent.

Disclosure of information

2.57 At the time of the Listing Review in 2005, an existing power for the FSA to require a sponsor to disclose information to us was omitted from the new rules. Having realised this omission, we proposed in CP08/12 to reinstate this power.

2.58 We asked:

Q19: Do you agree that the FSA should be able to require a sponsor to disclose information to it to enable the FSA to monitor sponsor firms?

Q20: If not, how do you believe that the FSA can maintain an appropriate standard across the sponsor community?

2.59 Respondents were supportive of us having this power, although two respondents pointed out that any disclosure should be limited to information pertinent to their roles as sponsor and not a blanket disclosure requirement.

Our response: We believe that the proposed rule is clear in its application. It is restricted to information related to a sponsor, sponsor applicant or a company that has appointed a sponsor.

In view of respondents' support we will implement the proposal.

List of non-confidential respondents to Consultation Paper 08/5

Arden Partners plc

Ashurst LLP

Association of British Insurers (ABI)

Close Brothers Corporate Finance Limited

Dickson Minto W.S.

Goodbody Corporate Finance

Grant Thornton UK LLP

Landsbanki (renamed Teathers Limited)

London Investment Banking Association (LIBA)

London Stock Exchange plc

Mclay Murray & Spens LLP

NCB Stockbrokers Limited

Panmure Gordon & Co

RBC Capital Markets

RBS Hoare Govett Limited

Shore Capital and Corporate Limited

Simmons & Simmons

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

The Law Society

List of non-confidential respondents to Chapter 12 of Consultation Paper 08/12

Arden Partners plc

Association of British Insurers (ABI)

Close Brothers Corporate Finance Limited

Goodbody Corporate Finance

Grant Thornton UK LLP

London Investment Banking Association (LIBA)

London Stock Exchange plc

Prudential UK and M&G

Noble & Company Limited

Nomura Code Securities Limited

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

The Law Society

Final Handbook Text – the Listing Rules (effective February 2009)

LISTING RULES (SPONSORS) (AMENDMENT) INSTRUMENT 2008

Powers exercised

- A. The Financial Services Authority makes this instrument in the exercise of the powers and related provisions in the following sections of the Financial Services and Markets Act 2000:
- (1) section 73A (Part 6 rules);
 - (2) section 88(3) (Sponsors);
 - (3) section 96 (Obligations of issuers of listed securities);
 - (4) section 101 (Listing rules: general provisions);
 - (5) section 157(1) (Guidance); and
 - (6) Schedule 7 (The Authority as Competent Authority for Part VI).

Commencement

- B. This instrument comes into force on 6 February 2009.

Amendments to the Handbook

- C. The Glossary of definitions is amended in accordance with Annex A to this instrument.
- D. The Listing Rules sourcebook (LR) is amended in accordance with Annex B to this instrument.

Notes

- E. In Annex B to this instrument, the “notes” (indicated by “**Note:**”) are included for the convenience of readers but do not form part of the legislative text.

Citation

- F. This instrument may be cited as the Listing Rules (Sponsors) (Amendment) Instrument 2008.

By order of the Board
4 December 2008

Annex A

Amendments to the Glossary of definitions

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

group

...

(4) (in *LR*):

- (a) (except in *LR* 6.1.19R, ~~*LR* 8.3.6R, *LR* 8.3.7G~~ and *LR* 8.7.8R(10)), an *issuer* and its *subsidiary undertakings* (if any); and
- (b) in *LR* 6.1.19R, ~~*LR* 8.3.6R, *LR* 8.3.7G~~ and *LR* 8.7.8R(10), as defined in section 421 of the *Act*.

sponsor service

a service relating to a matter referred to in *LR* 8.2 that a *sponsor* provides or is requested or appointed to provide and that is for the purpose of the *sponsor* complying with *LR* 8.3.1R or *LR* 8.4. This definition includes preparatory work that a *sponsor* may undertake before a decision is taken as to whether or not it will act as *sponsor* for a *company* or in relation to a transaction. But nothing in this definition is to be taken as requiring a *sponsor* to agree to act as a *sponsor* for a *company* or in relation to a transaction.

Annex B

Amendments to the Listing Rules sourcebook (LR)

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

For the convenience of readers the whole of LR 8 is reproduced in this Annex.

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; and
- (2) LR 8.6 to LR 8.7.

Listed companies and applicants

8.1.2 R A *company* with, or applying for, a *primary listing* of its *equity securities* must comply with LR 8.2 (When a sponsor must be appointed or its ~~assistance~~ guidance obtained) and LR 8.5 (Responsibilities of listed companies).

8.2 When a sponsor must be appointed or its ~~assistance~~ guidance obtained

When a sponsor must be appointed

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

- (1) makes an application for *admission of equity securities* which:
 - (a) requires the production of a *prospectus* or *equivalent document*; or
 - (b) is accompanied by a certificate of approval from another competent authority; or
 - (c) is accompanied by a summary document as required by PR 1.2.3R(8); or
 - (d) requires the production of *listing particulars* and is referred to in LR 15.3.3R or LR 16.3.4R; or

- (2) is required to produce a *class 1 circular*; or
- (3) is producing a *circular* that proposes a reconstruction or a refinancing which does not constitute a *class 1 transaction*; or
- (4) is producing a *circular* for the proposed purchase of own *shares*:
 - (a) which does not constitute a *class 1 circular*; and
 - (b) is required by *LR 13.7.1R(2)* to include a working capital statement; or
- (5) is required to do so by the *FSA* because it appears to the *FSA* that there is, or there may be, a breach of the *listing rules* or the *disclosure rules* ~~and~~ and *transparency rules* by the *listed company*.

~~When~~ Other transactions where a listed company must obtain a sponsor's assistance guidance

- 8.2.2 R If a *listed company* is proposing to enter into a transaction which due to its size or nature could amount to a *class 1 transaction* or a *reverse takeover* it must obtain the guidance of a *sponsor* to assess the application of the *listing rules* and *disclosure rules* and *transparency rules* ~~LR 10~~.
- 8.2.3 R If a *listed company* is proposing to enter into a transaction which is, or may be, a *related party transaction* it must obtain the guidance of a *sponsor* in order to assess the application of the *listing rules* and *disclosure rules* and *transparency rules* ~~LR 11~~.

8.3 Role of a sponsor: general

Responsibilities of a sponsor

- 8.3.1 R ~~Where a *sponsor* has been appointed under *LR 8.2* by a *listed company* or an *applicant*, a~~ A *sponsor* must in relation to a *sponsor service*:
 - (1) referred to in *LR 8.2.1R*, provide assurance to the *FSA* when required that the responsibilities of the *listed company* or *applicant* under the *listing rules* have been met; and
 - (2) referred to in *LR 8.2.1R*, *LR 8.2.2R* or *LR 8.2.3R*, guide the *listed company* or *applicant* in understanding and meeting its responsibilities under the *listing rules* and *disclosure rules* ~~and~~ and *transparency rules*.
- 8.3.2 G ~~A~~ The *sponsor* will be the main point of contact with the *FSA* for any matter referred to in *LR 8.2* where the *sponsor* has been appointed by a *listed company* or *applicant*. The *FSA* expects to discuss all issues relating to a transaction and any draft or final document directly with the *sponsor*. However, in appropriate circumstances, the *FSA* will communicate directly with the *listed company* or

applicant.

Principles for sponsors: due care and skill

- 8.3.3 R A *sponsor* must in relation to a sponsor service provide:
- (1) ~~any service as set out in LR 8.4; or~~
 - (2) ~~any assurance, guidance or advice to a listed company or applicant in relation to the application or interpretation of the listing rules and disclosure rules and transparency rules;~~
- act with due care and skill.

Principles for sponsors: duty regarding directors of listed companies

- 8.3.4 R Where, in relation to a sponsor service, a *sponsor* gives any guidance or advice to a *listed company* or *applicant* ~~in relation to~~ on the application or interpretation of the *listing rules* or *disclosure rules* ~~and~~ and *transparency rules*, the *sponsor* must take reasonable steps to satisfy itself that the *director* or *directors* of the *listed company* understand ~~the nature and extent of~~ their responsibilities and obligations under the *listing rules* and *disclosure rules* ~~and~~ and *transparency rules*.

Principles for sponsors: relations with the FSA

- 8.3.5 R A *sponsor* must at all times (whether in relation to a sponsor service or otherwise):
- (1) deal with the *FSA* in an open and co-operative way; and
 - (2) deal with all enquiries raised by the *FSA* promptly; and
 - (3) ~~disclose to the FSA in a timely manner any material information relating to the sponsor or to a listed company or applicant of which it has knowledge which addresses non-compliance with the listing rules or disclosure rules and transparency rules. [deleted]~~
- 8.3.5A R A sponsor must in relation to a sponsor service disclose to the FSA in a timely manner any material information relating to the sponsor or to a listed company or applicant of which it has knowledge which concerns non-compliance with the listing rules or disclosure rules and transparency rules.

Principles for sponsors: independence

- 8.3.6 R (1) ~~A sponsor must be independent of the listed company or applicant where a sponsor provides any service, assurance, guidance or advice and in any event must not act if the sponsor or another company in the sponsor's group has:~~
- (a) ~~an interest in, or a holding that is referenced to, 30% or more of the equity shares of the listed company or applicant or any other~~

~~company in that company's group; or~~

- ~~(b) a significant interest in the debt securities of a listed company or applicant or any other company in that company's group; or~~
 - ~~(c) a business relationship with, or financial interest in the listed company or applicant or any other company in the listed company's group that would give the sponsor or the sponsor's group a material interest in the outcome of the transaction. [deleted]~~
- (2) Any interest that arises as a result of the sponsor's discretionary client holdings is not to be included in the determination of the threshold set out in LR 8.3.6R(1)(a). [deleted]
 - (3) A sponsor will not be independent of a listed company or applicant if a director, partner or employee of the sponsor or another company in the sponsor's group:
 - (a) is involved in the provision of sponsor services; and
 - (b) has a material interest in the listed company or applicant or any other company in that company's group. [deleted]

- 8.3.7 G (1) ~~A sponsor and the sponsor's group should have a sufficient degree of independence from the listed company or applicant and from the transaction so that the role of the sponsor can be discharged in a way that will not:~~
- ~~(a) affect the outcome of the transaction; or~~
 - ~~(b) affect the nature of the advice given to the listed company or applicant; or~~
 - ~~(c) be perceived to have affected either the outcome of the transaction or the nature of the advice given to the listed company or applicant. [deleted]~~
- (2) In cases where a company in, or an employee of, the sponsor's group has an interest or a relationship that may be perceived to cause a conflict it may be possible to demonstrate to the FSA that adequate separation exists in respect of the transaction. [deleted]

Principles for sponsors: identifying and managing conflicts

- 8.3.7A G The purpose of LR 8.3.7BR to LR 8.3.12G is to ensure that conflicts of interest do not adversely affect:
- (1) the ability of a sponsor to perform its functions properly under this chapter; or
 - (2) market confidence in sponsors.

- 8.3.7B R A sponsor must take all reasonable steps to identify conflicts of interest that could adversely affect its ability to perform its functions properly under this chapter.
- 8.3.8 G Conflicts to be identified include circumstances that could create a perception in the market that a sponsor may not be able to perform its functions properly.
- 8.3.9 R A sponsor must take all reasonable steps to put in place and maintain effective organisational and administrative arrangements that ensure conflicts of interest do not adversely affect its ability to perform its functions properly under this chapter.
- 8.3.10 G Disclosure of a conflict of interest will not usually be considered to be an effective organisational or administrative arrangement for the purpose of LR 8.3.9R.
- 8.3.11 R If, in relation to a transaction, a sponsor is not reasonably satisfied that its organisational and administrative arrangements will ensure that a conflict of interest will not adversely affect its ability to perform its functions properly under this chapter, it must decline to provide sponsor services on the transaction.
- 8.3.12 G LR 8.3.11R recognises that there will be some conflicts of interest that cannot be effectively managed. Providing sponsor services in those cases could adversely affect both a sponsor's ability to perform its functions and market confidence in the sponsor regime. If in doubt about whether a conflict can be effectively managed a sponsor should discuss the issue with the FSA before it decides if it can provide a sponsor service.

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.]

Principles for sponsors: joint sponsors

- 8.3.14 R If a listed company or applicant appoints more than one sponsor to provide sponsor services in relation to a transaction 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.

8.4 Role of a sponsor: transactions

Application for admission: new applicants

- 8.4.1 R ~~LR 8.4.2 R to LR 8.4.6R~~ ~~8.4.4G~~ apply in relation to an application for admission of equity securities if an applicant does not have equity securities already listed and:
- (1) the production of a *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 *PR 1.2.3R(8)*.
- 8.4.2 R A *sponsor* must not submit to the *FSA* an application on behalf of an *applicant*, in accordance with *LR 3*, unless it has come to a reasonable opinion, after having made due and careful enquiry, that:
- (1) the *applicant* has satisfied all requirements of the *listing rules* relevant to an application for *admission to listing*;
 - (2) the *applicant* has satisfied all applicable requirements set out in the *prospectus rules* unless the *home Member State* of the *applicant* is not, or will not be, the *United Kingdom*;
 - (3) the *directors* of the *applicant* have established procedures which enable the *applicant* to comply with the *listing rules* and the *disclosure rules* ~~and~~ and *transparency rules* on an ongoing basis;
 - (4) the *directors* of the *applicant* have established procedures which provide a reasonable basis for them to make proper judgments on an ongoing basis as to the financial position and prospects of the *applicant* and its *group*; and
 - (5) the *directors* of the *applicant* have a reasonable basis on which to make the working capital statement required by *LR 6.1.16R*.

New applicants: procedure

- 8.4.3 R A *sponsor* must:
- (1) submit a completed Sponsor's Declaration on an Application for Listing to the ~~FSA~~ FSA either:
 - (a) on the day the *FSA* is to consider the application for approval of the *prospectus* and prior to the time the *prospectus* is approved; or

- (b) at a time agreed with the *FSA*, if the *FSA* is not approving the *prospectus* or if it is determining whether a document is an *equivalent document*;
- (2) submit a completed a Shareholder Statement or a Pricing Statement, as applicable, to the *FSA* by 9 a.m. on the day the *FSA* is to consider the application;
- (3) ensure that all matters known to it which, in its reasonable opinion, should be taken into account by the *FSA* in considering:
 - (a) the application for *listing*; and
 - (b) whether the *admission* of the *equity shares* would be detrimental to investors' interests;

have been disclosed with sufficient prominence in the *prospectus* or *equivalent document* or otherwise in writing to the *FSA*; and

- (4) submit a letter to the *FSA* setting out how the *applicant* satisfies the criteria in *LR 2* (Requirements for listing - all securities), ~~and~~ *LR 6* (Additional requirements for listing for equity securities) and, if applicable, *LR 15* or *LR 16*, no later than when the first draft of the *prospectus* or *listing particulars* is submitted (or, if the *FSA* is not approving a *prospectus* or if it is determining whether a document is an *equivalent document*, at a time to be agreed with the *FSA*).

[**Note:** the Sponsor's Declaration on an Application for Listing, the Shareholder Statement and the Pricing Statement forms can be found on the UKLA section of the *FSA*'s website.]

- 8.4.4 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 *FSA* that the board of the *applicant* has allotted the *equity securities*.

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

~~New applicants: marketing~~

- 8.4.5 R ~~A *sponsor* must:~~
- (1) ~~ensure that no *equity shares* are placed with *connected clients* of the *sponsor* or of any securities house or other intermediary assisting with the offer, unless placed with a market maker or fund manager for the purpose of its business as such; [deleted]~~

- (2) ~~ensure that the results of any marketing, including the basis of allotment where applicable, are notified to a RIS before admission is expected to become effective; and [deleted]~~
- (3) ~~ensure that if, after an offer for sale, offer for subscription, placing or intermediaries offer, any of the listed company's advisers or any intermediary becomes interested in 3% or more of any class of equity shares being marketed (calculated exclusive of treasury shares) the interest is notified to a RIS before admission is expected to become effective. [deleted]~~

- 8.4.6 R (1) For the purposes of *LR 8.4.5R(3)* an adviser or intermediary:
- (a) ~~will usually be regarded as having an interest if any market maker in the group of companies to which the adviser or intermediary belongs holds any equity shares of the applicant; and~~
 - (b) ~~will not have an interest if the holding of the market maker arises solely from holdings of equity shares held on behalf of clients. [deleted]~~
- (2) ~~In assessing the percentage size of the interest, the equity shares being marketed are to be treated as having already been issued. [deleted]~~

Application for admission: further issues

- 8.4.7 R *LR 8.4.8R to LR 8.4.10G* apply in relation to an application for admission of equity securities of an applicant that has equity securities already listed.
- 8.4.8 R A sponsor must not submit to the FSA an application on behalf of an applicant, in accordance with *LR 3* (Listing applications), unless it has come to a reasonable opinion, after having made due and careful enquiry, that:
- (1) the applicant has satisfied all requirements of the listing rules relevant to an application for admission to listing;
 - (2) the applicant has satisfied all applicable requirements set out in the prospectus rules unless the home Member State of the applicant is not, or will not be, the United Kingdom; and
 - (3) the directors of the applicant have a reasonable basis on which to make the working capital statement required by *LR 6.1.16R* or a qualified working capital statement in accordance with *LR 6.1.17G* (as the case may be).

Further issues: procedure

- 8.4.9 R A sponsor must:
- (1) submit a completed Sponsor's Declaration on an Application for Listing

to the *FSA* either:

- (a) on the day the *FSA* is to consider the application for approval of the *prospectus* and prior to the time the *prospectus* is approved; or
 - (b) at a time agreed with the *FSA* if the *FSA* is not approving the *prospectus* or if it is determining whether a document is an *equivalent document*;
- (2) submit a completed Shareholder Statement or a Pricing Statement, as applicable, to the *FSA* by 9 a.m. on the day the *FSA* is to consider the application; and
 - (3) ensure that all matters known to it which, in its reasonable opinion, should be taken into account by the *FSA* in considering the application for *listing* have been disclosed with sufficient prominence in the *prospectus* or *equivalent document* or otherwise in writing to the *FSA*.

[**Note:** The Sponsor's Declaration on an Application for Listing, the Shareholder Statement and the Pricing Statement forms can be found on the UKLA section of the *FSA*'s website.]

- 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 *FSA* the number of securities to be allotted or admitted.

[**Note:** see *LR* 3.3]

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 a *listed company* of *equity shares* with a *primary listing* that:
- (1) is required to produce a *class 1 circular*;
 - (2) is producing a *circular* that proposes a reconstruction or a re-financing which does not constitute a *class 1 transaction*; or
 - (3) is producing a *circular* for the proposed purchase of own *shares*;
 - (a) which does not constitute a *class 1 circular*; and
 - (b) is required by *LR* 13.7.1R(2) to include a working capital statement.
- 8.4.12 R A *sponsor* must not submit to the *FSA*, on behalf of a *listed company*, an application for approval of a *circular* regarding a transaction set out in *LR* 8.4.11R, unless the *sponsor* has come to a reasonable opinion, after having made due and careful enquiry, that:
- (1) the *listed company* has satisfied all requirements of the *listing rules* relevant to the production of a *class 1 circular* or other *circular*;

- (2) the transaction will not have an adverse impact on the *listed company's* ability to comply with the *listing rules* or the *disclosure rules* ~~and~~ and *transparency rules*; and
- (3) the *directors* of the *listed company* have a reasonable basis on which to make the working capital statement required by *LR 9.5.12R*, *LR 13.4.1R* or *LR 13.7.1R*.

Circulars: procedure

8.4.13 R A *sponsor* acting on a transaction falling within *LR 8.4.11R* must:

- (1) submit a completed Sponsor's Declaration for the Production of a Circular to the *FSA* on the day the *circular* is to be approved by the *FSA* and prior to the time the *circular* is approved;
- (2) submit a completed Pricing Statement, if applicable, to the *FSA* by 9 a.m. on the day the *FSA* is to consider the application; and
- (3) ensure that all matters known to it which, in its reasonable opinion, should be taken into account by the *FSA* in considering the transaction have been disclosed with sufficient prominence in the documentation or otherwise in writing to the *FSA*.

[**Note:** The Sponsor's Declaration for the Production of a Circular and the Pricing Statement forms can be found on the UKLA section of the *FSA's* website.]

8.5 Responsibilities of listed companies

Notifications to FSA

8.5.1 R A *listed company* or *applicant* must ensure that the *FSA* is informed promptly of the name and contact details of a any *sponsor* appointed in accordance with the *listing rules* (either by the *listed company* or *applicant* or by the *sponsor* itself).

- 8.5.2 R
- (1) A *listed company* or *applicant* must notify the *FSA* in writing immediately of the resignation or dismissal of any *sponsor* that it had appointed.
 - (2) In the case of a dismissal, the reasons for the dismissal must be included in the notification.
 - (3) The notification must be copied to the *sponsor*.

Listed company appoints more than one sponsor

8.5.3 R Where a *listed company* or *applicant* appoints more than one *sponsor*, the

company must:

- (1) ensure that one of the *sponsors* that is appointed:
 - (a) takes primary responsibility for contact with the *FSA* in respect of the entire application or transaction; and
 - (b) ~~appoints a suitably experienced *employee*, whose name appears on the list described in LR 8.6.15 R to liaise with the *FSA*; and~~
- (2) inform the *FSA*, in writing, of the name and contact details of the *sponsor* taking responsibility under LR 8.5.3R(1)(a).

8.5.4 R ~~The appointment of more than one *sponsor* does not relieve any of the *sponsors* so appointed of their obligations under the *listing rules*. [deleted]~~

8.5.5 G ~~Where a *listed company* or *applicant* appoints more than one *sponsor* in relation to a transaction, the *FSA* will consider all *sponsors* so appointed as jointly responsible for compliance with the *listing rules*. [deleted]~~

8.6 Criteria for approval as a sponsor

List of sponsors

8.6.1 G The *FSA* will maintain a *list of sponsors* on its website.

Application for approval as a sponsor

8.6.2 R A *person* wanting to provide ~~services as a *sponsor*~~ services, and to be included on the *list of sponsors*, must apply to the *FSA* for approval as a *sponsor* by submitting the following to the Sponsor Supervision Team at the *FSA*'s address:

- (1) a completed Sponsor Firm Application Form; and
- (2) ~~completed Sponsor Employee Application Forms; and [deleted]~~
- (3) the application fee set out in FEES 3.

[**Note:** The Sponsor's Firm Application Form ~~and the Sponsor Employee Application Form~~ can be found on the UKLA section of the *FSA*'s website.]

8.6.3 R A *person* wanting to provide ~~services as a *sponsor*~~ services and be included on the *list of sponsors* must also submit:

- (1) all additional documents, explanations and information as required by the *FSA*; and
- (2) verification of any information in such a manner as the *FSA* may specify.

- 8.6.4 G When considering an application for approval as a *sponsor* the *FSA* may:
- (1) carry out any enquiries and request any further information which it considers appropriate, including consulting other regulators;
 - (2) request that the applicant or its specified representative answer questions and explain any matter the *FSA* considers relevant to the application;
 - (3) take into account any information which it considers appropriate in relation to the application.
 - (4) [deleted]

[**Note:** The decision-making procedures that the *FSA* will follow when it considers whether to refuse an application for approval as a *sponsor* are set out in *DEPP*.]

Criteria for approval as a sponsor

- 8.6.5 R The *FSA* will approve a *person* as a *sponsor* only if it is satisfied that the *person* is:
- (1) is an authorised person or a member of a designated professional body;
 - (2) is competent to perform the services set out in LR 8.2, LR 8.3 and LR 8.4 sponsor services; and
 - (3) has adequate appropriate systems and controls in place to ensure that it can carry out its role as a sponsor in accordance with this chapter.

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

Competence of a sponsor

- 8.6.7 R A *sponsor person* will be competent to provide sponsor services ~~perform the services set out in LR 8.2, LR 8.3 and LR 8.4~~ if it has a broad range of relevant experience and expertise in providing advice to *listed companies* and on the *listing rules*.
- 8.6.8 G ~~In assessing the competence of a sponsor the FSA will have regard to:~~
- (1) ~~the number of suitably experienced employees retained by the sponsor, taking into account the size, number and nature of transactions undertaken and anticipated by the sponsor; [deleted]~~
 - (2) ~~the experience of those employees who are held out to the FSA as being suitably experienced employees; and [deleted]~~
 - (3) ~~the seniority of those suitably experienced employees. [deleted]~~
- 8.6.9 G (1) ~~An employee will generally be accepted as suitably experienced if he or~~

~~she has recent experience providing, in a competent manner, advice and services and fulfilling all responsibilities of a *sponsor* in relation to a transaction when a *sponsor* must be appointed. [deleted]~~

- (2) ~~The *FSA* may consider, in addition to the experience described in paragraph (1), an *employee's* recent experience, acting in a senior capacity, providing advice and services in a competent manner on:~~
- ~~(a) transactions where a *prospectus* is required under the *Prospectus Directive* or an *equivalent document* is produced; and~~
 - ~~(b) transactions which are similar in terms of size and complexity to those transactions set out in LR 8.2.1R. [deleted]~~
- (3) ~~Recent experience would normally be demonstrated if an *employee* has provided advice or services:~~
- ~~(a) at least three times in the preceding 36 months; and~~
 - ~~(b) at least once in the preceding 12 months. [deleted]~~

8.6.9A G In assessing whether a *person* is competent to provide, or to continue to provide, *sponsor services*, the *FSA* 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.

8.6.9B G In assessing whether a *person* is competent to provide, or to continue to provide, *sponsor services*, the *FSA* 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 *person* has given in circumstances other than in providing *sponsor services*.

8.6.10 R ~~A *sponsor* must have a sufficient number of suitably experienced *employees* to provide the services described in LR 8.2, LR 8.3 and LR 8.4 to a competent standard at all times. [deleted]~~

8.6.11 G ~~The fewer the number of suitably experienced *employees* that a *sponsor* has, the greater the need that those *employees* do not rely on the same transactions to demonstrate their experience in advising on the *listing rules*, unless each of those *employees* has extensive experience in providing advice on the *listing rules*. [deleted]~~

Systems and controls: general

8.6.12 G A *sponsor* will generally be regarded as having adequate appropriate systems and controls if there are:

- (1) clear and effective reporting lines in place (including clear and effective management responsibilities);
- (2) effective systems and controls for the ~~adequate~~ appropriate supervision of *employees providing sponsor services* ~~performing any of the services set out in LR 8.2, LR 8.3 and LR 8.4;~~
- (3) effective systems and controls to ensure its compliance with all applicable *listing rules* when performing *sponsor services* ~~any of the services set out in LR 8.2, LR 8.3 or LR 8.4;~~
- (4) ~~effective systems and controls for identifying and managing conflicts of interest; and~~ [deleted]
- (5) effective arrangements for ~~making~~ creating, and retaining, for 6 years, adequate records of all matters relating to the provision of ~~any services~~ *sponsor services* to a *listed company* or *applicant*;
- (6) effective systems and controls to ensure that it has appropriate staffing arrangements for the performance of *sponsor services* with due care and skill; and
- (7) effective systems and controls to ensure that employees performing *sponsor services* receive appropriate guidance and training for the performance of those services with due care and skill.

8.6.13 G The nature and extent of the systems and controls which a *sponsor* will need to maintain will depend upon 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 the transactions it undertakes; ~~and~~
- (4) the volume and size of the transactions it anticipates undertaking in the following year; ~~and~~
- (5) the degree of risk associated with the transactions it undertakes.

Systems and controls: conflicts of interest

8.6.13A G A *sponsor* will generally be regarded as having appropriate systems and controls if it has in place effective policies and procedures:

- (1) to ensure that decisions taken on managing conflicts of interest are taken by appropriately senior staff and on a timely basis;
- (2) to monitor whether arrangements put in place to manage conflicts are effective;

- (3) to ensure that individuals within the *sponsor* are appropriately trained to enable them to identify, escalate and manage conflicts of interest; and
- (4) to ensure that appropriate records are kept of decisions relating to identification and management of conflicts and the basis upon which it has reached those decisions.

8.6.13B G The policies and procedures referred to in LR 8.6.13AG are distinct from the actual organisational and administrative arrangements that a *sponsor* is required to put in place and maintain under LR 8.3.9R to manage specific conflicts.

8.6.14 G ~~To enable it to comply with its obligation to maintain appropriate systems and controls, a *sponsor* should carry out an annual review of them. [deleted]~~

~~Systems and controls: employees~~

8.6.15 R ~~A *sponsor* must keep an up to date list of all suitably experienced *employees* on whom it relies to demonstrate that it satisfies the criteria set out in LR 8.6.5R. [deleted]~~

8.6.16 G ~~A *sponsor* will generally be regarded as having effective systems and controls for the adequate supervision of *employees* if:~~

- (1) ~~All *employees* involved in the provision of any of the services described in LR 8.2, LR 8.3 and LR 8.4 are adequately supervised by a suitably experienced *employee*; [deleted]~~
- (2) ~~all *employees* providing any of the services described in LR 8.2, LR 8.3 and LR 8.4 do not act beyond their proper authority; [deleted]~~
- (3) ~~for each transaction which requires a *sponsor* as set out in LR 8.2, LR 8.3 and LR 8.4, an *employee*, whose name is on the list required by LR 8.6.15R:~~
 - (a) ~~is appointed by the *sponsor* to liaise with the FSA;~~
 - (b) ~~Reviews all the assurances provided to the FSA; and~~
 - (c) ~~signs the Confirmation of Independence, the Sponsor's Declaration and any Listing Application forms that may be required; and [deleted]~~
- (4) ~~for each transaction which requires a *sponsor* as set out in LR 8.2, *employees* who are sufficiently knowledgeable about the transaction are available to answer queries from the FSA on any *business day* between the hours of 8 a.m. and 6 p.m. [deleted]~~

Regular review

8.6.17 R A *sponsor* must carry out a regular review to ensure that:

- (1) it continues to be competent to provide *sponsor services*; and
- (2) it has appropriate systems and controls in place to ensure that it can continue to carry out its role as a *sponsor* in accordance with this chapter.

8.6.18 R A *sponsor* must create, and retain for 6 years, adequate records to demonstrate that it has carried out the regular reviews referred to in LR 8.6.17R setting out the basis upon which it has reached any conclusions about whether it continues to meet the criteria in that rule.

Contact persons

8.6.19 R For each transaction for which it provides *sponsor services*, a *sponsor* must:

- (1) notify the *FSA* as soon as practicable of the name and contact details of the main contact *person* or *persons* in the *sponsor* for that transaction; and
- (2) ensure that the contact *person* or *persons*:
 - (a) have sufficient knowledge about the *listed company* or *applicant* and the proposed transaction to be able to answer queries from the *FSA* about it; and
 - (b) are available to answer queries from the *FSA* on any business day between 8am and 6pm.

8.7 Supervision of sponsors

8.7.1 G The *FSA* expects to have an open, co-operative and constructive relationship with a *sponsor* to enable it to have a broad picture of the *sponsor's* activities and its ability to satisfy the criteria for approval as a *sponsor* as set out in LR 8.6.5R.

Requirement to provide information

- 8.7.1A R
- (1) The *FSA* 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 *FSA*.
 - (2) The *sponsor*, or the *person* applying for approval as a *sponsor*, must as soon as practicable provide to the *FSA* 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 *FSA* 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*.

Supervisory tools

- 8.7.2 G The *FSA* uses a variety of tools to monitor whether a *sponsor*:
- (1) continues to satisfy the criteria for approval as a *sponsor* as set out in *LR 8.6.5R*; and
 - (2) remains in compliance with all applicable *listing rules*.
- 8.7.3 G *FSA* staff, after notifying the *sponsor*, may make supervisory visits to a *sponsor* on a periodic and an ad hoc basis.
- 8.7.4 G The *FSA* will give reasonable notice to a *sponsor* of requests for meetings or requests for access to a *sponsor's* documents and records.

Requests from other regulators

- 8.7.5 G The *FSA*, on behalf of other regulators, may request information from a *sponsor* or pass information on to other regulators to enable such regulators to discharge their functions.

Fees

- 8.7.6 R A *sponsor* must pay the annual fee set out in *FEES 4* in order to remain on the *list of sponsors*.

Annual notifications

- 8.7.7 R A *sponsor* must provide to the *FSA* on an annual basis:
- (1) written confirmation that it continues to satisfy the criteria for approval as a *sponsor* as set out in *LR 8.6.5R*; and
 - (1A) for each of the criteria in that rule, details of the basis upon which it considers that it meets the criteria.
 - (2) ~~an up to date list of *employees* that are suitably experienced on whom the *sponsor* can rely to demonstrate that it satisfies the criteria set out in *LR 8.6.5 R*; [deleted]~~
 - (3) ~~for each *employee* whose name is on the list maintained by the *sponsor* under *LR 8.6.15 R*, details of the transactions on which the *employee* has acted in the previous 12 months; and [deleted]~~
 - (4) ~~a list of transactions on which the *sponsor* was appointed as agent under *LR 8.7.16 R*, if applicable. [deleted]~~

General notifications

- 8.7.8 R A *sponsor* must notify the *FSA* in writing as soon as possible if:

- (1) the *sponsor* ceases to satisfy the criteria for approval as a *sponsor* set out in *LR 8.6.5R*; or
- (2) the *sponsor*, or any of its *employees* ~~whose names are on the list maintained by the *sponsor* under *LR 8.6.15R*~~ who provide *sponsor services*, are:
 - (a) convicted of any offence involving fraud, theft or other dishonesty; or
 - (b) the subject of a bankruptcy proceeding, a receiving order or an administration order; or
- (3) any of its *employees* ~~whose names are on the list maintained by the *sponsor* under *LR 8.6.15R*~~ who provide *sponsor services* are disqualified by a court from acting as a *director* of a *company* or from acting in a management capacity or conducting the affairs of any *company*; or
- (4) the *sponsor*, or any of its *employees* ~~whose names are on the list maintained by the *sponsor* under *LR 8.6.15R*~~ who provide *sponsor services*, are subject to any public criticism, regulatory intervention or disciplinary action:
 - (a) by the *FSA*; or
 - (b) by any *designated professional body*; or
 - (c) by any body that is comparable to the *FSA* or a *designated professional body*; or
 - (d) under any comparable legislation in any jurisdiction outside the *United Kingdom*; or
- (5) the *sponsor* resigns or is dismissed by a *listed company* or *applicant*, giving details of any relevant facts or circumstances;
- (6) the *sponsor* changes its name; or
- (7) ~~the list of *employees* that are suitably experienced to enable the *sponsor* to demonstrate that it satisfies the criteria set out in *LR 8.6.5R* is amended, either because an *employee* is added to or is removed from the list; or~~ [deleted]
- (8) a *listed company* or *applicant* denies the *sponsor* access to documents or information that have been the subject of a reasonable request by the *sponsor*; or
- (9) a review carried out under ~~*LR 8.6.14G*~~ *8.6.17R* reveals any material deficiencies in the *sponsor's* systems and controls; or

- (10) there is a change of control of the *sponsor*, or the *sponsor's group* carries out any restructuring, which results in a re-organisation of the *directors*, partners or *employees* involved in providing services as a *sponsor*.

8.7.9 G General notifications may be made in the first instance by telephone, but must be confirmed promptly in writing.

8.7.10 G Written notifications should be sent to the Sponsor Supervision Team at the *FSA's* address.

~~Transaction notification rules: appointment of FSA liaison~~

8.7.11 R ~~Each time a *sponsor* is appointed to act for a *listed company* or *applicant* as required by the *listing rules* it must inform the *FSA* as soon as possible of the name of the suitably experienced *employee*, whose name appears on the list described in *LR 8.6.15R*, who has been appointed by the *sponsor* to liaise with the *FSA*. [deleted]~~

~~Transaction notification rules: sponsor independence conflicts declaration~~

8.7.12 R (1) Each time a *sponsor* is appointed to act as a *sponsor* as required by the *listing rules* it must complete a ~~Confirmation of Independence Conflicts Declaration~~.

(2) The completed ~~Confirmation of Independence Conflicts Declaration~~ must be submitted to the *FSA* at the same time as any documents in connection with a transaction are first submitted to the *FSA*.

[~~Note: The Confirmation of Independence Conflicts Declaration form can be found on the UKLA section of the *FSA's* website.~~]

8.7.13 R If, after submitting a ~~Confirmation of Independence Conflicts Declaration~~ but prior to the *day* of approval of the *prospectus*, *listing particulars* or *circular*, a *sponsor* becomes aware that it is ~~not independent of the *listed company* or *applicant* or the transaction~~ no longer able to comply with *LR 8.3.9R* or *LR 8.3.11R*, it must notify the *FSA* immediately. ~~The details~~ Details of the lack of independence must be confirmed promptly to the *FSA* in writing.

8.7.14 R On the day of approval of the *prospectus*, *listing particulars* or *circular*:

(1) a written confirmation that there has been no material change to the ~~Confirmation of Independence Conflicts Declaration~~; or

(2) an updated ~~Confirmation of Independence Conflicts Declaration~~ reflecting any and all changes;

must be submitted to the *FSA*.

8.7.15 G The *FSA* will notify the *sponsor* of any concerns it has in relation to the *sponsor's* independence as soon as possible following receipt of the

Confirmation of Independence Conflicts Declaration as set out in *LR 8.7.12R* or *LR 8.7.14R* or other notification regarding the *sponsor's* independence.

Appointment of an agent Performance of functions on behalf of a sponsor

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

Discipline of sponsors

- 8.7.19 R If the *FSA* considers that a *sponsor* has breached any provision of the *listing rules* and considers it appropriate to impose a sanction it will publish a statement censuring the *sponsor*.
- 8.7.20 G *EG* sets out the *FSA's* policy on when and how it will use its disciplinary powers, including in relation to a *sponsor*. This includes, at *EG 18*, its approach to cancellation of a *sponsor's* approval on the *FSA's* own initiative.

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

- 8.7.21 G A *sponsor* that intends to request the *FSA* to cancel its approval as a *sponsor* will need to comply with *LR 8.7.22R*.
- 8.7.22 R A request by a *sponsor* for its approval as a *sponsor* to be cancelled must be in writing and must include:
- (1) the *sponsor's* name;
- (2) a clear explanation of the background and reasons for the request;
- (3) the date on which the *sponsor* requests the cancellation to take effect;
- (4) a signed confirmation that the *sponsor* will not participate in any services described in *LR 8.2* as of the date the request is submitted to the

FSA; and

- (5) the name and contact details of the *person* at the *sponsor* with whom the *FSA* should liaise with in relation to the request.

8.7.23 G A *sponsor* may withdraw its request at any time before the cancellation takes effect. The withdrawal request should initially be made by telephone and then confirmed in writing as soon as possible, with an explanation of the reasons for the withdrawal.

8.7.24 G (1) [deleted]

(2) [deleted]

...

16.3.5 G ~~LR 8.4.5R(3) is modified to require the notification of interests of 10% or more for an *open ended investment company*.~~ [deleted]

LR Appendix 1:

- group*
- (1) except in *LR 6.1.19R*, ~~*LR 8.3.6R*~~, ~~*LR 8.3.7G*~~ and *LR 8.7.8R(10)*, an *issuer* and its *subsidiary undertakings* (if any); and
- (2) in *LR 6.1.19R*, ~~*LR 8.3.6R*~~, ~~*LR 8.3.7G*~~ and *LR 8.7.8R(10)*, as defined in section 421 of the *Act*.

sponsor service a service relating to a matter referred to in *LR 8.2* that a *sponsor* provides or is requested or appointed to provide and that is for the purpose of the *sponsor* complying with *LR 8.3.1R* or *LR 8.4*. This definition includes preparatory work that a *sponsor* may undertake before a decision is taken as to whether or not it will act as *sponsor* for a *company* or in relation to a transaction. But nothing in this definition is to be taken as requiring a *sponsor* to agree to act as a *sponsor* for a *company* or in relation to a transaction.

Appendix 2

Sponsor Confirmations and Sponsor Firm Application Form

SPONSOR'S DECLARATION ON AN APPLICATION FOR LISTING

To: The FSA

Date: _____20____

Full name of *sponsor*: _____

The undersigned request that you will allow _____(number)
equity securities of _____(denomination) each
of _____ (name of *applicant*) to be admitted to the *Official List*.

Type of issue for which the application is being made _____

I, _____ an officer duly authorised
to give this declaration, confirm that we have:

- acted with due care and skill in relation to the provision of *sponsor services*;
- taken reasonable steps to satisfy ourselves that the *directors* of the *applicant* understand their responsibilities and obligations under the *listing rules* and *disclosure* and *transparency rules*;
- come to a reasonable opinion, after having made due and careful enquiry that:
 1. the *applicant* has satisfied all requirements of the *listing rules* relevant to an application for *admission to listing*;
 2. the *applicant* has satisfied all applicable requirements set out in the *prospectus rules*;*;
 3. the *directors* of the *applicant* have a reasonable basis on which to make the working capital statement required by LR6.1.16R [or LR6.17]**;
 4. the *directors* of the *applicant* have established procedures which enable the *applicant* to comply with the *listing rules* and the *disclosure* and *transparency rules* on an ongoing basis**; and
 5. the *directors* of the *applicant* have established procedures which provide a reasonable basis for them to make proper judgments on an ongoing basis as to the financial position and prospects of the *applicant* and its *group*.**

I confirm that we have maintained adequate records in relation to this application that show the basis of our opinion of the matters set out above.

I also confirm that all matters known to us which, in our reasonable opinion, should be taken into account by the FSA in considering:

- (a) the application for *admission to listing*; and
- (b) whether the *admission* of the *equity securities* would be detrimental to investors' interests;****

have been disclosed with sufficient prominence in the *prospectus* or *listing particulars* or otherwise in writing to the FSA. Should any further information come to our notice before *admission to listing*, I will inform the FSA immediately.

SIGNED BY _____

Duly authorised officer

Name of *sponsor*

If you knowingly or recklessly give false or misleading information you may be liable to prosecution.

*Paragraph 2 may be deleted if the *home Member State* of the *applicant* is not, or will not be, the United Kingdom.

**Paragraphs 4 and 5 may be deleted if the *applicant* is not a new *applicant*.

***Paragraph 3 may be deleted if the applicant is producing listing particulars under LR16. ***LR6.1.17 must be deleted if the applicant is a new applicant.

****Paragraph (b) may be deleted if the *applicant* is not a new *applicant*

To be completed in all cases

Application to be heard on: _____ 20__

Admission expected to become effective on: _____ 20__

Name of contact at sponsor regarding application: _____

Telephone number: _____

SPONSOR'S DECLARATION FOR THE PRODUCTION OF A CIRCULAR

To: The FSA

Date: _____ 20____

Full name of *sponsor*: _____

Full name of *listed company*: _____

Transaction being undertaken: _____

I, _____ an officer duly authorised to give this declaration, confirm that we have:

- acted with due care and skill in relation to the provision of *sponsor services*;
- come to a reasonable opinion after having made due and careful enquiry that:
 1. the *listed company* has satisfied all requirements of the *listing rules* relevant to the production of a *class 1 circular* or other *circular*;
 2. the transaction will not have an adverse impact on the *listed company's* ability to comply with the *listing rules* or the *disclosure and transparency rules*; and
 3. the *directors* of the *listed company* have a reasonable basis on which to make the working capital statement required by LR9.5.12R, LR13.4.1R or LR13.7.1R.

I confirm that we have maintained adequate records in relation to this transaction that show the basis of our opinion of the matters set out above.

I also confirm that all matters known to us which, in our opinion, should be taken into account by the FSA in considering this transaction have been disclosed with sufficient prominence in the circular or otherwise in writing to the FSA.

SIGNED BY _____

Duly authorised officer

Name of *sponsor*

If you knowingly or recklessly give false or misleading information you may be liable to prosecution.

CONFLICTS DECLARATION

To: The FSA

Date: _____ 20__

Full name of *sponsor*: _____

Full name of *listed company or applicant*: _____

I, _____, an officer duly authorised to give this declaration confirm, having regard to LR8.3.6G - LR8.3.12G, that: _____

_____ (name of *sponsor*)

has taken all reasonable steps to identify conflicts of interest that could adversely affect its ability to perform its functions properly under LR8 and has identified no such conflicts of interest.

or

having taken all reasonable steps has identified conflicts of interest that could adversely affect its ability to perform its functions properly under LR8 and:

- has put in place and will maintain effective organisational and administrative arrangements that ensure such conflicts of interest do not adversely affect its ability to perform its functions properly under LR8; and
- will decline to provide sponsor services if it is not reasonably satisfied that its organisational and administrative arrangements will ensure that a conflict of interest will not adversely affect its ability to perform its functions properly under LR8.

SIGNED BY: _____

Duly authorised officer

Name of *sponsor*

Confirmation of independence by the Compliance Department

I, _____, being a duly authorised compliance officer of the *sponsor*, confirm that I am satisfied that the information provided on this conflicts declaration is accurate and complete.

SIGNED BY _____

Compliance Officer
for and on behalf of:

Name of *sponsor*

If you knowingly or recklessly give false or misleading information you may be liable to prosecution.

SPONSOR FIRM APPLICATION FORM

Name of applicant

Trading name (if different)

Address

Postcode

Tel

Email

Fax

Legal status of applicant (public limited company, private limited company, *limited liability partnership*, limited partnership, *partnership* (other than a *limited liability partnership* or limited partnership), unincorporated association or other)

Place and date of incorporation or formation

Primary contact

Name:

Title:

Email:

Tel:

Is the applicant:

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

Yes

No

If yes what is the *FSA* firm registration number:

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

Yes

No

If yes what is the *FSA* firm reference number:

If authorised under the Act, please indicate which regulated activity(ies) the firm has been granted authorisation to carry out under its Part IV permission:

What is the applicant's target market (e.g. sector, size of issuer etc)?

Please describe the applicant's intended activities (e.g. flotations, public offers etc)

Please provide a list (on a separate sheet if necessary) of existing listed companies who are clients of the applicant. Please include details of the nature of the relationship with the client (eg. broker, financial adviser, etc)

Please describe prior relevant experience of the applicant¹:

- in providing corporate finance services; and
- in providing sponsor services in circumstances set out in LR8.2; and
- which demonstrates skills, knowledge and expertise necessary for the proper performance of sponsor services; and/or
- guidance or advice provided to a listed company or new applicant or other client on the listing rules and disclosure rules and transparency rules in circumstances other than in providing sponsor services.

¹ Where an applicant has not been approved as a sponsor previously, the FSA will consider any relevant experience of employees of the applicant who have previously been involved in the provision of sponsor services when employed by an approved sponsor. Applicants should take all reasonable steps to ensure that the prior experience of employees cited in this form is accurately represented and the FSA may require independent verification of this experience from previous employers.

Please include the nature of the advice or the transaction and the capacity in which the applicant acted (if preferred the applicant may attach a separate sheet detailing transactional and non-transactional experience of the firm). 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
<i>Public Company PLC</i>	<i>Sponsor</i>	<i>Acted as sponsor, joint financial adviser and bookrunner on PLC's admission to the Official List.</i>	<i>June 2005</i>
<i>Public Company PLC</i>	<i>NOMAD</i>	<i>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 FSA on this transaction.</i>	<i>February 2008</i>
<i>Public Company PLC</i>	<i>Joint Broker</i>	<i>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 FSA during this time and have discussed disclosure requirements with FSA from time to time.</i>	<i>March 2003 to date</i>
<i>Public Company PLC</i>	<i>Adviser on takeover offer</i>	<i>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.</i>	<i>September 2008</i>

State the number of employees who will be involved in sponsor activities excluding administrative employees. Please also include an organogram showing these employees and the lines of reporting in place at the time of application.

Please set out below brief details of the employees who will be responsible for the management of sponsor services by the applicant. Please also provide a brief CV for each person listed on a separate sheet. Where an applicant is intending to rely on an individual's experience to demonstrate compliance with LR8.6.7R please include in the table below and provide a detailed CV including prior relevant experience of providing sponsor services.

Name	Qualifications	Position	Length of service with applicant

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

The following section of the form requires details of how the applicant intends to demonstrate appropriate systems and controls as required by LR8.6.5(3). Guidance on what will generally be accepted as compliance with this requirement is set out in LR8.6.12, LR8.6.12A and LR8.6.12B. Should an applicant wish to make an application on the basis of compliance with LR8.6.5 but rely on other measures than the guidance set out in LR8 they should contact the Sponsor Supervision Team prior to making any application.

Regard should be had to the factors set out in LR8.6.12AG when considering the efficacy of any procedural arrangements being put in place to comply with LR8.6.12 and LR8.6.12B. When completing this form please have regard to how the applicant will take account of these factors.

Please also include with your application form a copy of your compliance manual to be used by employees carrying out sponsor services. Where appropriate cross reference to this manual may be made to demonstrate compliance however this form should set out in detail how the applicant will be applying existing systems and controls set out in the manual to comply with the requirements of LR8.

Please also advise us when each of these areas were last reviewed or if a review is intended to be carried out imminently.

Describe the systems and controls that are in place to ensure that employees performing sponsor services are appropriately supervised [LR8.6.12(2)] and that there are clear and effective reporting lines in place (including clear and effective management responsibilities) [LR8.6.12(1)]. Details of any executive committee structure put in place to manage the provision of sponsor services would assist us in considering your application.

Is there any other information that may be relevant to the FSA in considering this application? If yes, please give details on a separate sheet.

Yes No

Please check that you have included with this form:

- A copy of the applicant's Compliance/Procedure manual relevant to sponsor activities.
- An internal organisation plan which clearly details respective responsibilities and reporting lines;
- Where relevant, separate CVs for employees named in paragraph 12 of this form;
- Any other relevant documentation which has been cross-referred to in this form; and
- A cheque for the application fee as required by FEES 3.2.7R.

Data Protection Act disclosure

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

Monitoring of sponsors under LR8

Please note that the FSA will be evaluating and recording the performance of sponsors through communications between its employees and the FSA. This information will be used in assessing the ongoing ability of the sponsor to comply with LR8.6.6 and will form part of any assessment of a sponsor's ability to comply with LR8.6.7. Information submitted in relation to this application may also be passed to other regulators to enable them to discharge their functions (see LR8.7.5).

Declaration

I am authorised to make this application for approval as a sponsor on behalf of the applicant named in paragraph 1.

I confirm that the information in this application is complete and correct to the best of my knowledge and belief.

I have read LR8 and believe that this application conforms to the criteria for approval as a sponsor set out in LR8.6.5.

I 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 LR8.3.

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

I am aware that knowingly or recklessly giving the FSA information that is false or misleading in a material particular is a criminal offence.

I will notify the FSA immediately of any significant change to the information given on this form or accompanying documents.

I understand that the FSA may require me to provide further information or documents at any time after I have sent the application and before the applicant have 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 overall responsibility for the provision of sponsor services; the other should have overall responsibility for compliance.

Name in block capitals	Date
Position	
Signature	

Name in block capitals	Date
Position	
Signature	

Please return this form to:
Sponsor Supervision Team
UK Listing Authority
25 The North Colonnade
Canary Wharf
London E14 5HS
Tel: 020 7066 8333 (option 5)

Note: Please ensure that the application fee of £4,000 is enclosed with this application.

The FSA will usually notify an applicant of its decision on an application for approval as a sponsor:

within one month beginning with the date on which the application is received; or

if within that period the FSA has required the applicant to provide further information in connection with the application, within one month beginning with the date on which that information is provided.

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

PUB REF: 001430

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