



PRIMARY MARKETS EFFECTIVENESS REVIEW

Issued 20 September 2021

ICAEW welcomes the opportunity to comment on the consultation *Primary Markets Effectiveness Review* published by FCA on 5 July 2021, a copy of which is available from this [link](#).

This response of 20 September 2021 has been prepared by the ICAEW Corporate Finance Faculty. Recognised internationally as a source of expertise on corporate finance issues and for its monthly *Corporate Financier* magazine, the faculty is responsible for ICAEW policy on corporate finance issues including submissions to consultations. The faculty's membership is drawn from professional services groups, advisory firms, companies, banks, private equity, law firms, consultants, academics and brokers.

ICAEW is a world-leading professional body established under a Royal Charter to serve the public interest. In pursuit of its vision of a world of strong economies, ICAEW works with governments, regulators and businesses and it leads, connects, supports and regulates more than 157,800 chartered accountant members in over 147 countries. ICAEW members work in all types of private and public organisations, including public practice firms, and are trained to provide clarity and rigour and apply the highest professional, technical and ethical standards.

© ICAEW 2021

All rights reserved.

This document may be reproduced without specific permission, in whole or part, free of charge and in any format or medium, subject to the conditions that:

- it is appropriately attributed, replicated accurately and is not used in a misleading context;
- the source of the extract or document is acknowledged and the title and ICAEW reference number are quoted.

Where third-party copyright material has been identified application for permission must be made to the copyright holder.

For more information, please contact: CFF@icaew.com

ICAEW

Chartered Accountants' Hall Moorgate Place London EC2R 6EA UK
T +44 (0)20 7920 8100 F +44 (0)20 7920 0547 icaew.com

The Institute of Chartered Accountants in England and Wales (ICAEW) incorporated by Royal Charter (RC000246)
Registered office: Chartered Accountants' Hall Moorgate Place London EC2R 6EA UK

KEY POINTS

The UK's Listing Regime (Chapters 1 to 3)

1. Structural change to the listing regime should not be necessary until it is possible to assess the extent to which the proposed targeted measures have reduced barriers to listing without discouraging existing issuers from staying listed.
2. The regulatory role of sponsor is important for ensuring the suitability of companies coming to the public market. It is a valuable support for companies, particularly on initial public offering of their securities. Removal of the role will have consequential impact on other assurances that are part of the listing application, and on scrutiny of information that investors consider important, such as working capital and other forward-looking information.
3. If concurrent proposals to separate regulation of public offers of securities, and the regulation of admissions to stock markets are adopted, in the interest of transparency and certainty in the market, the FCA should have oversight of minimum disclosure standards and admission criteria of trading venues.

Changes to the Listing Rules and other rules (Chapters 4 to 9)

4. We are broadly supportive of the proposed targeted measures to remove barriers to listing but think that the FCA should have used this opportunity to enable some flexibility in the approach to the track record requirement.

COMMENTS ON THE DISCUSSION IN CHAPTERS 1 TO 3

5. The composition of issuers on the Main Market shows that it is effective in attracting financial companies and many commercial issuers. In addition, the measures being consulted on are targeted towards companies that have hitherto not chosen to apply for a premium listing, or not been eligible to do so. Structural change should not be necessary until it is possible to assess the extent to which these measures have reduced barriers to listing and have not discouraged existing issuers from staying listed.
6. The role of the sponsor is important for ensuring the suitability of companies coming to the public market. It is a valuable support for companies, particularly on initial public offering of their securities, and provides assurances that contribute to the confidence of investors and the reputation of the premium segment. Removal of this regulatory role will have consequential impact on assurances provided by reporting accountants and other experts as part of the listing application, and on scrutiny of information that investors consider important, such as on working capital and other forward-looking information.
7. In the light of the concurrent HM Treasury proposals to separate regulation of public offers of securities, and the regulation of admissions to stock markets, we believe that there is an oversight role for the FCA in minimum disclosure standards and admission criteria of trading venues. This will maintain transparency and aid informed choice.

ANSWERS TO SPECIFIC QUESTIONS IN CHAPTERS 4 TO 9

Q18: Do you agree with our rationale for introducing DCSS to the premium listing segment? Is there any additional evidence that we should consider?

Q19: Do you foresee any limitations to our proposal if the weighted voting shares are unlisted?

Q20: Do you consider that a five year sunset period for DCSS in the premium listing segment is the correct length to protect companies from unwanted takeovers? Please provide evidence for your answer.

Q21: Do you consider that the mechanism proposed will be effective in providing a deterrent to unwanted takeovers? Please give reasons for your answer and any possible alternatives.

Q22: Do you agree with the proposed controls around DCSS in the premium listing segment? Are there any additional controls that would make the regime more effective?

8. We recognise that the principal drivers for introducing DCSS are to boost the competitiveness of the UK markets for listing certain high-growth companies, and to attract other types of investors to opportunities in the UK. In this context, we agree with the introduction, the sunset period and the mechanism, and the importance of establishing such controls around DCSS. The effectiveness of the proposed controls in deterring unwanted takeovers and/or protecting investors from shareholders with disproportionate control compared to their financial interest, should be the subject of review within a reasonable period after implementation, once DCSS has been adopted by a number of issuers.

Q23: Do you agree with our proposal to raise the minimum market capitalisation for companies seeking to list under standard and premium listing to £50m? If not, please state your reasons and indicate what alternative threshold may be more appropriate along with any supporting evidence. We also welcome views on whether we should consider setting out conditions under which we might modify the proposed rule on the new threshold, and if so what criteria stakeholders think we could usefully consider.

Q24: Do you consider that the current level of market capitalisation for listed debt remains appropriate? Please give reasons for your answer.

9. We recognise that the minimum market capitalisation (MMC) was set many years ago and merits review. There are consequences however of doing this alongside the proposed reduction in the required free float to 10%, and there will be situations where it is appropriate for the FCA to have conditions under which it might modify the new MMC. For example, certain companies with a market capitalisation of less than £50m, but more than 10% of shares expected to be in public hands, being precluded from listing. A lower MMC with a sliding scale free float could provide more flexibility for the FCA while ensuring adequate liquidity.

Q25: Do you agree with our proposal to reduce free float to 10% and to remove current guidance on modifications? Please give your reasons.

10. Based on the rationale set out in the consultation paper, we do not object to the proposal to reduce the free float. As set out in our response to Q23 we would prefer a sliding scale free float, together with a lower MMC than that proposed. Criteria for the sliding scale would include the size of the company and make-up of the share register.

Q26: Would you find information about issuers' free float level useful to inform investment decision-making?

11. The investor community is best placed to respond to this.

Q27: Do you agree with our proposal to leave track record requirements as they are now, based on our assessment that this would only affect a small number of stakeholders? If you disagree, please provide further evidence or examples of the wider impact this has on prospective listing applicants and proposed amendments.

Q28: What types of companies struggle to meet the existing requirement in the premium segment for a 3 year revenue track record covering 75% of the business? What alternatives could be considered for these companies?

12. Our members agree with the examples set out in the consultation paper of companies that struggle to meet the current track record requirement; ie, high growth, acquisitive companies, and ones with a revenue track record covering marginally less than 75% of the business.
13. However, without an understanding of the evidence behind the FCA's statement in 8.12 that 'only relatively few issuers find the 75% requirements burdensome', we think this consultation is a missed opportunity to find a solution to the challenges above.
14. The FCA could consider formalising, in a Technical Note, the criteria it currently refers to, under PRR 3.1, for scrutinising the completeness of the information in a draft prospectus. These criteria include where the company has a complex financial history and could provide the means for flexibility in the existing track record requirement.
15. We note that in standard segment listings, an issuer's advisers, in their internal considerations, often refer to the 75% rule when interpreting for a complex financial history situation what additional information is required for an investor to be able to make an informed assessment (due to the lack of other available reference points). By publishing the Technical Note requested above, the FCA would also be providing a point of reference.

Q29: Do you foresee any unintended consequences of these changes intended to modernise the Listing Rules, Disclosure Guidance and Transparency Rules and the Prospectus Regulation Rules?

16. The changes generally appear to be sensible.