FCA Primary Markets Effectiveness Review Policy Statement – Summary

On 2 December 2021, the FCA released its Policy Statement following the conclusion of the consultation period for the Primary Markets Effectiveness Review. The Policy Statement, which will take forward most of the proposals made in the Review, summarises the feedback received, sets out the FCA's policy response and includes final rules and details of transitional arrangements.

The QCA's response to the Primary Markets Effectiveness Review can be found here.

This note provides an overview of the background to the review, a summary of the changes that will be made, the QCA's position and a comparison table.

Background

The consultation paper for the Primary Markets Effectiveness Review was published on 5 July 2021 and ran until 14 September 2021. The Review aimed to reduced barriers to companies listing in the UK and encourage private companies to consider listing at an earlier stage.

The Primary Markets Effectiveness Review consisted of two main parts:

1. An open discussion paper seeking views on the functioning of the UK listing regime, which explored different models on the structure of the markets.
2. A consultation paper on targeted change to the existing regime aimed at removing immediate barriers to listing and to improve the accessibility of the FCA's rulebooks.

As part of the discussion paper element, the FCA sought views on four models:

1. Model 1 - A single segment for UK listed companies which has the minimum requirements for eligibility (as currently required for the standard listing segment). Premium listing requirements, including track record, shareholder protection and governance, and the requirement for a sponsor could be removed.
2. Model 2 - A single segment for UK listed companies where eligibility and continuing obligations are raised to the level set for the premium segment. As a result, there would be no standard listing segment and companies that cannot meet the requirements could opt to be admitted to "unlisted markets".
3. Model 3 - There would be two broad structure for UK listed companies. A "senior" segment would be aimed at companies with an established track record and contain additional requirements on shareholder protection and governance. An "alternative" segment would be created for growth and acquisitive companies. Trading venues would be able to continue to use the segments as admission criteria without setting their own in isolation.
4. Model 4 - In a similar vein to Model 3, this would include "senior" and "alternative" segments, but rather than the FCA having control, the market itself would be allowed to set the minimum standards for the alternative segment.

As part of the consultation element, the FCA proposed:

- Implementing a targeted form of dual class share structures within the Premium Listing segment;
- Increasing the minimum market capitalisation threshold for both the Premium Listing and Standard Listing segments from £700,000 to £50 million;
- Reducing the proportion of shares required to be in public hands when listing (free float requirements) from 25% to 10%;
- Introducing more waivers for the coverage of the 3-year track record requirement; and
- Minor simplifications and modernisations to the Listing Rules, Disclosure and Transparency Rules (DTRs) and Prospectus Regulation Rules.

Summary of changes

Discussion paper

The FCA stated that it received strong engagement and detailed views in response to the discussion on the possible models for a new structure to the listing regime. The FCA intend to provide more detailed information on the responses received to this element in the first half of 2022.

Consultation paper

After considering the feedback received during the consultation period, the FCA will be taking forward many of the proposed changes outlined in the consultation paper. The majority of the new rules came into force on 3 December 2021, with the amendments to the primary rule books coming into force on 10 January 2022.

The changes include:

<u>Dual class share structures</u>

Regarding dual class share structures, the FCA proposed to introduce a targeted and time-limited form of dual class share structure in the Premium Listing segment. This proposal would introduce a conditional 5-year exception to the current rule that restricts votes on matters relevant to Premium Listing to holders of Premium Listed shares only. The exception applies where the class of share with weighted voting rights meets the following conditions:

- A maximum weighted voting ratio of 20:1
- May only be held by directors of the company or beneficiaries of such a director’s estate
- Weighted voted rights only to be available in two limited circumstances:
    - a vote on the removal of the holder as a director; and
    - following a change of control, in relation to a vote on any matter (to operate as a strong deterrent to a takeover)
- Weighted voting rights can only be held by directors of the company.

After reviewing the responses, the FCA will maintain the key features of their proposal and implement a targeted form of dual class share structures in the Premium Listing segment.

<u>Minimum market capitalisation</u>

In the consultation, the FCA proposed raising the minimum market capitalisation for companies listing on both the Premium Listing segment and Standard Listing segment from £700,000 to £50 million. The FCA proposed to raise the minimum market capitalisation to £50 million on the basis that they consider companies with a market capitalisation lower than this to be better suited for admission to other markets, such as AIM or AQSE. The FCA also cited resourcing constraints as another reason for looking to introduce a minimum market capitalisation.

However, following the feedback received to the consultation, the FCA has decided to lower the minimum market capitalisation to £30 million.

Free float requirements

The FCA proposed to set a revised level for the minimum value of shares in public hands. This would mean a reduction in free float requirements from 25% to 10% and a removal of the discretionary ability for the FCA to modify the rule to accept a lower level. The FCA also put forward a proposal to require more transparency on free float.

After reviewing the responses, the FCA will finalise its rules as consulted to set a revised 10% level for minimum free float. They will not, however, proceed with the idea to require more specific transparency on free float.

Track record requirements

The FCA stated that they received more compelling evidence to suggest a wider review of this requirement is necessary, rather than relying on a 'case-by-case' assessment and potential waivers by exception. The FCA will review the track record obligation as they consider wider reforms to the listing regime in response to the discussion paper.

Minor changes to the Listing Rules, DTRs and Prospectus Regulation Rules

The FCA will proceed broadly as consultation with some minor changes to reflect the feedback it received to the consultation.

QCA position

The QCA broadly welcomes the FCA's policy response to the Primary Markets Effectiveness Review in that it will hopefully enhance the attractiveness of our markets and increase the number of companies seeking a listing. We are also hugely encouraged by the FCA's direction of travel to improve our markets and the timeliness of its response in taking forward the recommendations contained in Lord Hill's Listing Review.

However, and as proposed in our response to the Primary Markets Effectiveness Review, we would have preferred to see the changes implemented into a new market format to replace the Standard Listing segment. Doing so would preserve the globally recognised high standards and reputation of the Premium Listing segment, while providing a more flexible and agile market for certain types of companies at an intermediate stage of their growth.

We also consider there to be significant merit in proceeding with a more holistic approach to the reform of our markets, whereby the wider reform to the existing market structure was considered ahead of or alongside the introduction of the changes to dual class share structures, free float requirements and minimum market capitalisation.

That being said, we hope that the reforms are effective in reducing the barriers to listing in the UK and encourage more private companies to list at an earlier stage.

Comparison table

Area of reform	Consultation proposal	Final outcome	QCA reaction
Dual class share structures	Introduce a targeted and time limited form of DCSS	Broad support – rules will be finalised as consulted on	Neutral – may increase attractiveness, but at the expense of lowering the standards of the Premium List
Minimum market capitalisation	Raise the minimum market capitalisation for the Premium and Standard Listing segments from £700,000 to £50 million	Broad concern – the minimum market capitalisation will be raised to £30 million instead of £50 million	Neutral – positive that the minimum market capitalisation has been lowered from the initial proposal, but still too high. Needs to be considered in a wider context
Free float requirements	Revise the minimum level of free float from 25% to 10%	Broad support – rules will be finalised as consulted on	Broadly positive – will hopefully encourage more listings
Track record requirements	No specific proposal	Broad concern – track record requirements will be reviewed and consulted on as part of wider reforms to market structure	Positive – track record requirements can be an unnecessary obstacle for some companies
Minor rule book changes	Minor simplifications and modernisations to the Listing Rules, DTRs and Prospectus Rules	Broad support – rules will be finalised as consulted on	Positive – simplifying and modernising the rulebooks are welcome