CFA Society United Kingdom

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Financial Conduct Authority
12 Endeavour Square
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Submitted by e-mail to: cp23-10@fca.org.uk

Dear Ms Pritchard,

CFA UK response to the FCA's Consultation Paper 23/10 – 'Primary Markets Effectiveness Review: proposed equity listing rule reforms'

The CFA Society of the UK (CFA UK) welcome the opportunity to respond to the FCA's wide-ranging proposals in the above consultation paper (the "CP"). In line with our organisation's purpose (see Appendix I), with this letter we aim to highlight relevant issues to promote a regulatory environment where investors' interests are protected, markets function at their best and economies grow and in a way that builds a more sustainable future.

The driver for this set of proposals has come from the government's desire to arrest the decline in the number of companies listing on the London market; we believe that UK investors share and hold this desire just as keenly as government.

However, before addressing the merits of the proposals below we must state our belief that London's current listing rules are only a relatively minor contributory factor behind the decline in companies listing on the London Stock exchange ("LSE"); we believe relative valuation and market flows have played a far more decisive role. That UK pension funds have progressively sold out of UK equities, such that UK equities now only account for 2% of UK pension fund assets[1], has greatly contributed to a lack of support of UK equity valuations over the last decade. Over the same period, private equity has been awash with capital and, helped by ultra-low interest rates, buy-outs have been probably the single-most significant source of de-listings from the LSE over the last decade. With interest rates now rebounding, buy-out funding has abated. Furthermore, the UK's Defined Benefit pension funds are now substantially disinvested from equities and with Defined Contribution pension funds growing in importance in the coming decade, UK pension monies are likely to flow back into UK equities and support, not undermine, their valuations in the coming years.

Whilst the catalyst for this review of the London listing rules is therefore erroneous, we do accept a need to periodically review their effectiveness. Reviewing the feedback to the FCA's earlier Discussion Paper (DP22/2), there are evidently some reforms which meet the aims of the CP, open opportunities up for UK investors and at the same time make a UK listing less onerous for current and potential listees. However, the proposed reforms go

[1] Source: ONS, Figure 4 and para 2.10 on page 23 of the CP

much further than this. They include new and wide-ranging proposals which were not consulted on as part of DP22/2 and include proposals which represent a significant dilution of investor protections.

In Annexe II we provide answers to those of the CP's 52 questions where we feel we can make helpful comment. We wish to also highlight the following over-arching points that resonate across the proposals:

- ***Caveat Emptor***: the proposals remove investor protections and increase investment risks whilst reducing the administrative and governance burden on companies. Some of these risks lend themselves more easily to analysis than others and can be more accurately quantified. Investors do not choose to lose protections, but a case can be made for creating a more efficient market by reducing unnecessary requirements where the related risks can be fairly accurately measured and 'priced in'. Overall, we would expect the proposed net reduction in investor protections to lead to lower valuations across UK equities and corporate bonds issued by UK listed companies, though perhaps these are already priced in. We note that this might in turn make the UK a less favourable place for companies to list, thereby undermining the main intention of the proposals. Authoritative academic research clearly illustrates the trade-off in weaker investor protections leading to higher equity risk premia[2].
- **'Black Swans':** Within the suite of proposed reforms there are changes, however, where these risks that are not easily anticipated or measurable and are akin to 'black swans' – potentially highly destructive to shareholders and extremely unpredictable. We believe the UK listing rules should continue to protect investors from such events, particularly in relation to management actions on Significant Transactions and Related Party Transactions. Any corrective price action is likely to understate the potential risks (though it might also overstate it) thereby creating market inefficiency, the costs of which exceeds the cost to companies of the extra governance and administration in the existing protections.
- **The Sponsor Regime:** we do not fully share the FCA's assessment of the effectiveness of sponsors in safeguarding investor interests. We agree that their expertise is helpful to their corporate clients, especially when they are smaller and overseas companies, in navigating the listing rules. However, they are paid for by the company and serve their client's and their own interests first, not those of investors. They are also powerless, with the defence only of resignation, in the face of an aggressive company management. Experience in the AIM market has provided ample[3] examples of where the sponsor failed to protect investor interests.

[2] "Bonding and the agency risk premium: An analysis of migrations between the AIM and the Official List of the London Stock Exchange", published in Reed Elsevier's "Journal of International Financial Markets, Institutions & Money" (Kevin Campbell, Isaac T. Tabner, May 2014). ISSN 1042 4431.

[3] Reviewing how the Nomad model has worked on the AIM market, we are not convinced that there is good evidence that a sponsor regime would be effective and enhance the main market - certainly not to the extent that it supplants current protections. We don't believe former shareholders of Patisserie Holdings or Conviviality would be inclined to place a great deal of faith in sponsors. Nor would they in past cases where there was even an absence of wrongdoing - companies such as RapidCloud, W Resources, Herencia, Nektan, Paragon Entertainment, NQ Entertainment, Ural Energy – and where shareholders suffered suspensions, and worse, following Nomad resignations.

- **Passive versus Active and Retail:** If the listing regime moves to a model more open to 'buyer beware' that shifts governance risks and opportunities onto investors and different investors will benefit and lose out as a result:

    - Professional active investors are, at least, set up to accurately identify, value and anticipate these additional governance risks.
    - Passive managers may benefit from the decisions of active investors in pricing in these governance risks and may through engagement or potentially index customisation be able to head them off, but, ultimately, they have no option other than to own the security.
    - Retail investors are less likely to read and appreciate the nuances in certain disclosures by companies with opaque corporate structures or complex governance arrangements.

On a final note, we share a publication from CFA Institute[4] that concludes that the integrity and investor protections in public markets should not be compromised - neither in a race to the bottom amongst global regulators competing for listings, nor by what will be a failed attempt to compete with the attractiveness of private markets for certain types of company. These companies are best financed in private markets and, besides, retail investors should still be able to gain access to invest in these companies via other routes.

We would be happy to meet and discuss or clarify any of the content of this letter. Otherwise, we will await the draft handbook rules for what will hopefully be a sensibly moderated set of proposals and transitional arrangements in the Autumn.

Yours sincerely,

Will Goodhart
Chief Executive
CFA Society of the UK

Andrew Burton, CFA
Professionalism Adviser
CFA Society of the UK

With thanks for contributions from:

Jane Fuller, FSIP
Paul Lee

and the oversight of both CFA UK's [Professionalism Steering Committee](#) and CFA UK's Pensions Expert Panel.

[4] "Capital Formation: The Evolving Role of Public and Private markets (October 2018)": https://www.cfainstitute.org/advocacy/policy-positions/capital-formation

APPENDIX I: About CFA UK and CFA Institute

CFA UK serves nearly twelve thousand leading members of the UK investment profession. Many of our members work either managing investment portfolios, advising on investments, or in roles responsible for investment operations or oversight.

The mission of CFA UK is to build a better investment profession and to do this through the promotion of the highest standards of ethics, education and professional excellence in order to serve society's best interests.

Founded in 1955, CFA UK is one of the largest member societies of CFA Institute and provides continuing education, advocacy, information and career support on behalf of its members.

Most CFA UK members have earned the Chartered Financial Analyst® (CFA®) designation or are candidates registered in CFA Institute's CFA Program. Both members and candidates attest to adhere to CFA Institute's Code of Ethics and Standards of Professional Conduct.

For more information, visit www.cfauk.org or follow us on Twitter @cfauk and on LinkedIn.com/company/cfa-uk/.

CFA Institute is the global association for investment professionals that sets the standard for professional excellence and credentials.

The organisation is a champion of ethical behavior in investment markets and a respected source of knowledge in the global financial community. Its aim is to create an environment where investors' interests come first, markets function at their best, and economies grow.

It awards the Chartered Financial Analyst® (CFA) and Certificate in Investment Performance Measurement® (CIPM) designations worldwide, publishes research, conducts professional development programs, and sets voluntary, ethics-based professional and performance-reporting standards for the investment industry.

CFA Institute has members in 162 markets, of which more than 170,000 hold the Chartered Financial Analyst® (CFA) designation. CFA Institute has nine offices worldwide and there are 158 local member societies.

For more information, visit www.cfainstitute.org.

APPENDIX II: Responses to Questions

***Q1:* Do you agree with the proposal to remove specific financial information eligibility requirements for a single ESCC category? If not, please explain why and any alternative preferred approach.**

Yes, on the assumption made in para 3.12 that all necessary information will still be required in the prospectus.

***Q2:* Do you agree with a proposal to explore a modified approach to the independence of business and control of business provisions for a single ECSS category, with a view to enhancing flexibility, alongside ensuring clear categories for funds and other investment vehicles?**

We recognise that the current rules for the Premium List do restrict some businesses from listing there which is an unwelcome unintended consequence of these safeguards. An alternative would be to extend the scope of LR6.10.3R beyond extraction industries to other sectors where this is a common problem.

As for the current proposal:

- For active professional investors, we would again hope that full and proper disclosure of all relevant information relating to business independence and control of business should ensure that the risks outlined in 4.17 are acceptable and can be minimised. Failure to do this should result in a lower valuation.
- For passive investors, disclosure will not be a safeguard as they will still have to buy the security if it goes into their index.
- For retail investors, we have concerns that many will not read or appreciate them all as on such matters disclosures may be quite nuanced and control/independence issues quite complex.

We agree with the creation of separate categories for funds and other investment vehicles.

***Q3:* Do you have views on what rule or guidance changes may be helpful, and whether certain disclosures could also be enhanced to support investors and market integrity, or any alternative approaches we should consider?**

As stated in our response to question 2 above, we wonder whether it might be more effective simply to extend the scope of LR6.10.3R and to retain these provisions for sectors where independence of business and control of business are less relevant. Where these issues are less pertinent the disclosures should not be burdensome for applicants.

***Q4:* Do you agree with our proposed approach to dual class share structures for the single ESCC category and the proposed parameters? If you disagree, please explain why and provide any alternative proposals.**

We agree that the inclusion of a sunset provision makes the inclusion of dual-class shares much more palatable and may encourage certain types of company to list in London that would previously not have done. US academic research has found that in certain types of company a dual-class share capital may actually increase a company's valuation in the short-term, but that this expires quickly unless there is a sunset provision[5][6]. We have received feedback from some members with a preference for a 7-year rather than a 10-year sunset provision.

***Q5:* Do you agree with our proposed approach to the controlling shareholder regime for a single ESCC category? Do you have any views on the suitability of alternative approaches to the one proposed?**

This proposed reform exposes shareholders (and for that matter unsecured bondholders too) to an unquantifiable (potentially severe and unpredictable) risk. The debacle of ENRC is testament to this. Disclosures cannot really defend minority shareholders against a future action which a controlling shareholder may subsequently undertake; only the existing right of veto is effective. The US regime has no protections against controlling shareholder actions, but there is a well-established tradition of class-actions and a culture of litigation which the UK lacks.

The removal of these protections may well disincline active shareholders to typically (or even systematically) buy minority shares on the basis that the risk of adverse controlling shareholder action is often difficult to assess and measure. This may in turn undermine valuations of such companies which may then find valuations on other exchanges more attractive. Passive investors, on the other hand, will have no such choice and will have to own this security regardless of the unquantifiable risk that this reform creates.

***Q6*: Do you agree that our proposals as regards controlling shareholders align with our need to act, as far as is reasonably possible, in a way which is compatible with our strategic objective of ensuring markets work well and advances our market integrity and consumer protection objectives? If you don't agree, how do you believe these should be balanced differently?**

We don't agree that this reform will 'make markets work well' or improve the current arrangement on the Premium List. Instances will hopefully be rare, but actions by controlling shareholders that run to the detriment of minority shareholders are likely to provoke market volatility around the time the transaction is announced, possibly severely so if it is analogous to the case of ENRC. They will likely be very hard to predict from previous disclosures. The removal of the veto – the right to a shareholder vote, excluding the shares of the controlling shareholder – is a major erosion of investor protection and it is often difficult to calculate its value.

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[5] Martijn Cremers, Beni Lauterbach, and Anete Pajuste, *The Life-Cycle of Dual-Class Firms* (Jan. 1, 2018), *at* https://papers.ssrn.com/sol3/papers.cfm?abstract_id=3062895.

[6] Lucian Bebchuk & Kobi Kastiel, *The Untenable Case for Dual-Class Stock*, 103 Va. L. Rev. 585 (2017).

Active shareholders will be able to take a view. They will take into account any relationship they may have with the controlling shareholder; they will consider whether the subsidiary in which they are being asked to invest has significant assets in a legal jurisdiction in which they have a fair prospect of making a successful legal claim. Retail investors are unlikely to have such relationships or the wherewithal for subsequent legal action. Passive investors may be able to access wider group relationships and resort to legal routes. In any event they will have to take their chances.

We fail to see how this proposed weakening of investor protections will boost the valuations of such companies. Ironically, it may make it less likely that such companies opt to list in the UK.

***Q7:* Do you agree with the proposed approach to significant transactions for a single ESCC category? If not, please explain why and any alternative proposals.**

The proposed reform will make listing more attractive for certain types of company, notably for example, those that are highly acquisitive. At the same time, full and proper disclosure of the significant transaction at the time it is agreed will make this reform more palatable for active investors. We note that a failure to publish all material information at the time the significant transaction is announced would be a breach of the MAR. We see no reason why disclosures could not be just as good as that which would have appeared in the shareholder circular under the existing rules. Arguably therefore active shareholders are no worse off, again they can disinvest if they dislike the announced transaction. For passive investors (who cannot divest) and retail shareholders (who may not fully read the disclosures) matters may be different. All parties will lose the benefit of having shareholders vote down a transaction which is not in the company's interests and before it is committed, so there is a greater reliance on company management. Management skill is something which active shareholders are expected to be measuring and evaluating continually.

Investors place little or no reliance on the protections of the sponsor regime. We don't doubt the overall quality of sponsors' advice to their client and the value that they provide especially to smaller and overseas companies which may be unfamiliar with the listing rules but we doubt that this advice will be delivered with investors' interests fully respected. Sponsors are paid by the company, not investors, and very often on a fee formula geared to the 'success' (not successful failure) of the transaction. They are also powerless, with the defence only of resignation, in the face of an aggressive company management. Experience in the AIM market has provided ample examples of where the sponsor failed to protect investor interests.

Reviewing how the Nomad model has worked on the AIM market, we are not convinced that there is good evidence that a sponsor regime would be effective and enhance the main market - certainly not to the extent that it supplants current protections. We don't believe former shareholders of Patisserie Holdings or Conviviality would be inclined to place a great deal of faith in sponsors. Nor would they in past cases where there was even an absence of wrongdoing - companies such as RapidCloud, W Resources, Herencia, Nektan, Paragon

Entertainment, NQ Entertainment, Ural Energy – and where shareholders suffered suspensions, and worse, following Nomad resignations.

We note the conclusions of Campbell and Tabner's authoritative academic research[7] on the changes in relative equity risk premia that occur as and when companies either are promoted to the main London listing or relegated to AIM. We conclude that this provides further illustration of the lack of perceived benefit for investors in the sponsor regime.

***Q8:* Do you consider that additional disclosure could be considered to further support transparency to shareholders on significant transactions and, if so, what (e.g., considering current circulars)?**

We would expect companies to disclose all relevant information up-front in the announcement rather than have material facts emerge subsequently in the annual report. Whilst the shareholder circular may no longer be a requirement it still can be a template for advisors to ensure all material facts are disclosed at the time the transaction is announced and that companies are in compliance with the MAR. FCA guidance could play a role here to help advisors encourage companies to make full and proper disclosures at transaction announcement.

***Q9:* Should we consider further mechanisms prior to a significant transaction being formally completed (for example, a mandatory period of delay between exchange and completion) to support shareholder engagement with listed commercial company equity issuers in place of shareholder approval? What should those mechanisms be and why?**

Requiring a mandatory period of delay between exchange and completion of a significant transaction, during which shareholders can be engaged on a public-only information basis has some benefits, but also some risks for both companies and investors.

The main benefit is that it fosters engagement with leading shareholders, which is positive for investor relationships and creates an atmosphere of openness, not ambush. A key advantage is that it also should ensure that all relevant information is made public at the time of the announcement as a failure to do so would only lead to media attention on what is missing. It also obviates the costs of arranging the current shareholder meeting and vote.

The main disadvantage is that there probably would be unwelcome share and bond price volatility during the engagement period if a transaction got a (perhaps unjustified) poor market reception, adverse media reaction or faced vocal, collective shareholder opposition. It therefore increases execution and reputational risk for the company and will demand senior management time and attention, though arguably no more so than the requirement for a shareholder meeting. The risks of this process might also dissuade a friendly target company from otherwise agreeing to be acquired.

[7] "Bonding and the agency risk premium: An analysis of migrations between the AIM and the Official List of the London Stock Exchange", published in Reed Elsevier's "Journal of International Financial Markets, Institutions & Money" (Kevin Campbell, Isaac T. Tabner, May 2014). ISSN 1042 4431.

Not all shareholders are equal in such circumstances. It is hard to see retail shareholders getting any voice, but this mechanism would be more inclusive to leading shareholders than the proposed lack of any requirement at all. Most shareholders would not want to become insiders either running up to or during this period for fear of losing liquidity and there is a good case for the FCA banning this (without FCA prior approval) to ensure a level playing field and minimise the risk of leaks and market abuse.

Significant transactions are sometimes subject to other competition or regulatory approvals and in such cases companies would lose no time in accommodating such an 'engagement period' in their transaction timetable.

As with a failed vote at a shareholder meeting, there could be implications for the company's management. There will also be penalties to the third party and abortive costs if the company subsequently withdrew from the transaction, but those might be significantly less than the cost of proceeding with a bad deal.

Ultimately, we struggle to recommend that such a mechanism should be a listing requirement, but a company might choose to adopt it in certain circumstances and FCA guidance on the process might be useful in that regard.

***Q10:* Should the sponsor's advisory role in assessing whether a potentially significant transaction meets the proposed disclosure threshold be mandatory or optional, and what are your reasons? Do you agree with our proposal that sponsors have more discretion to modify the class tests, including substituting the tests with alternative measures, without seeking formal FCA agreement to the modifications? If you disagree, please provide your reasons and alternative proposals.**

We believe a sponsor's involvement should be mandatory to help ensure an orderly market process. We are less convinced that the sponsor's involvement will ultimately deliver a better outcome for shareholders, however, for reasons already outlined under Q7 above.

***Q11:* Should we consider expanding the sponsor's role further on any aspects of significant transactions?**

We consider that the sponsor's role in significant transactions is one of assisting an orderly process and hand-holding the company through what may be an unfamiliar process. As we state in our answer to question 7, we do not believe their participation provides any additional safeguards to investors as they are not being paid for by investors.

***Q12:* Do you agree with the proposed approach to RPTs for a single ESCC category, which is based on a mandatory announcement at and above the 5% threshold, supported by the 'fair and reasonable' assurance model which includes the sponsor's confirmation as described above? If not, please explain why and any alternative proposals in the context of a single ESCC category.**

No. A related party transaction ("RPT") at a significantly larger size (say 25%) should still be subject to a shareholder vote as currently under the Premium Listing Rules with any

controlling or related shareholder non-voting. Significant RPTs are rare but have the potential to be extremely destructive to shareholder value whilst the probability of their occurrence is hard to analyse and predict beforehand. As stated in our answers to questions 7, 10 and 11 above, we believe investors are unlikely to place any reliance on sponsors to defend their interests. As significant RPTs are rare, we believe that the retention of the voting requirement is highly unlikely to dissuade companies from a London listing.

***Q13:* Do you consider that additional disclosure requirements could be considered to further support transparency to shareholders on RPTs, and should we consider requiring certain mechanisms prior to a deal being completed (for example, a mandatory period of delay between exchange and completion) to support shareholder engagement with listed companies to replace the requirement for independent shareholder approval?**

We refer you to our answer to question 9 above for our general thoughts on the mandatory period of delay between exchange and completion; most of these apply equally to RPTs as much as significant transactions.

On an RPT, as opposed to say a merger, the risk of abortive fees or penalties to a third-party and share price volatility are likely to be lower. Also, there is no risk of the process dissuading a friendly target whereas the benefit of dissuading a destructive RPT would be a considerable benefit. Arguably therefore, this mechanism has more merit in relation to RPTs.

We believe this process could only work on a public information basis with all necessary and relevant information in the public domain and without the need for any investor wall-crossing. We can't see any net benefit for an investor agreeing to a wall-crossing in this situation.

***Q14:* Should it be mandatory for a listed company in the single ESCC category to obtain guidance from a sponsor on the application of the LR, DTR and MAR whenever it is proposing to enter into a related party transaction (irrespective of the size of the transaction), or should it be at the company's discretion?**

It should be mandatory. RPTs may be transacted very infrequently by some companies and the sponsor can play a helpful hand-holding role for the company. It should remove the risk of the excuse "we didn't realise" down the line.

***Q15:* Should it be mandatory for the sponsor to consult with the FCA and agree any modifications to the class tests and classification of a proposed RPT, or should the sponsor have more discretion? Please explain your reasons.**

It should be mandatory. See our answers above to questions 7, 10, 11 and 12 above.

***Q16:* Are there any broader, alternative mechanisms that existing shareholders or prospective investors would want to see in place of, or made use of, in order to strengthen shareholder protection in relation to RPTs in the event that these changes are made to our**

LR? If so, would these be matters for inclusion in our LR or are they found, for example, in legislation or market practice?

We believe consultation with the FCA should be mandatory as RPTs are potentially highly destructive to shareholder value. Significant RPTs (say above 25%) should retain a shareholder vote.

Q17: Do you agree with the proposed approach to cancellation of listing for the single ESCC category, and do you have any views on other possible changes to the existing cancellation process?

Yes. The requirement for a shareholder vote should be retained.

Q18: Do you think that the notice period proposed for the single ESCC category for de-listing should be extended (taking the approach of other jurisdictions) and if so to what? What would the benefits be?

We would not extend the notice period. We would recommend following US practice of requiring the continuing publication of financial statements for a period post so that there is a chance of identifying whether material information had been previously withheld by the company from the market.

Q19: Do you consider the policy for cancellation of listing by the FCA after a long suspension should be revisited? If so, how?

We have no comment.

Q20: Do you agree with retaining shareholder approval provisions on discounted share issuance and on share buy-backs, as currently required by the premium LR, as part of a single ESCC category, or would these be problematic for certain issuers?

Yes. This is fundamental.

Q21: Do you agree with our proposed approach to reporting against the UK Corporate Governance Code for companies listed in the single ESCC category, and are there any other mechanisms the FCA could consider to promote corporate governance standards?

Yes, we support reporting against the corporate governance code. It encourages corporates to behave correctly and those choosing to explain rather than comply are easily identified.

Q22: Do you have any views on the proposed application of reporting requirements under LR 9.8 (i.e., premium LR requirements) as the basis for the single ESCC category?

These requirements do not appear sufficiently burdensome to dissuade a company from listing in the UK.

***Q23:* Do you agree with our proposed changes to the LR principles? If not, please explain why and provide details of any alternative suggested approach.**

Yes.

***Q24:* We are considering applying the principles as eligibility criteria, to clarify expected standards and reflect the fact that in practice these requirements need to be complied with at the point of listing. Please provide details if you foresee any issues with this approach.**

We have no comment.

***Q25:* Do you agree with our proposed changes to strengthen cooperation and information gathering provisions as outlined in this section? If not, please explain why and any alternative suggested approach to addressing the issue identified.**

We agree with the proposals.

***Q26:* In relation to our proposal to ask issuers to provide contact details of their key persons, do you think this should include details of the CEO, CFO and COO? Do you have any other suggestions as to other key roles that we should consider? Also, are there circumstances where it would be appropriate for an issuer to nominate a third party (such as an FCA authorised advisor), as a key person and, if so, why?**

We agree and would also include the Chairman and the Senior Independent Director since they are commonly the most outward-facing independent directors for investors. We would also include the Company Secretary for legal issues.

***Q27:* Are there specific considerations we need to take into account for different issuer or security types, in relation to our proposals in this section, that we should take into account as we develop our proposals further?**

No comment.

Q28: Do respondents have any concerns about the availability of sponsor services as a result of the proposed changes to the listing regime and the sponsor role?

***Q29:* We welcome views from sponsors on whether they would be able to adapt or willing to provide services to a potentially wider and more diverse range of issuers? We particularly welcome any information or data on the implementation and ongoing costs sponsors may incur as a result of our proposals.**

CFA UK is not a sponsor.

***Q30:* Do sponsors have any concerns about performing the sponsor role and providing sponsor assurances within the model proposed? Please provide details.**

CFA UK is not a sponsor. CFA UK has concerns expressed above about sponsors' bias and partiality given they should be expected to work in the interests of their client.

Q31: Do you have any concerns that sponsors will be able to demonstrate continued competence under our proposed approach? What matters should the FCA take into account when assessing sponsor competence?

We have no concerns over competence but over bias and partiality.

Q32: We welcome views on proposed restructure of the listing regime set out above. In particular, do you agree with our preliminary proposals for dealing with issuers that are not issuers of equity share in commercial companies?

No comment.

Q33: Have we identified the impacts on different issuer types and sufficiently delineated between them? If you have alternative suggestions that we should consider, please provide details.

They seem well reasoned. We agree that SPACs should be separated out.

Q34: We welcome views and suggestions on our proposed approach as outlined above and in Annex 4, for updating the LR sourcebook.

It seems sensible. We have no further comments.

Q35: If you have views on what transitional arrangements may be required, please provide details.

We have no comments on the transitional arrangements for issuers, sponsors and exchanges. Index providers' timetables will likely be driven by the needs of their investor clients; investors in turn will need to know issuer's plans, particularly those on the standard list which may contemplate delisting. There is likely to be an element of circularity to the process.

Q36: How long do you think issuers may need to prepare for and implement the various changes proposed in this consultation? For example, how long would commercial company issuers of standard listed equity shares need to prepare to ensure they could meet additional obligations proposed under the ESCC listing category, such as those relating to significant transactions and related party transactions (discussed in Chapter 5). Please also provide reasons.

No comment.

***Q37:* Have we identified the areas where cost to issuers, advisors or sponsors may be increased as a result of our ESCC single segment proposals? If not, please explain the additional costs that we should consider in our CBA.**

No comment.

***Q38:* Please provide estimates for familiarisation costs and implementation costs for the different policy elements of the proposed new ESCC category, if possible.**

No comment.

***Q39:* To assist us to quantify the costs of our proposals, please provide data or additional information to explain the additional costs that might arise to issuers, advisors or sponsors.**

No comment.

***Q40:* Are there any other considerations we should take into account?**

No comment.

***Q41:* Have identified the areas where cost to issuers or sponsors may be increased as a result of our overarching proposals? If not, please explain the additional costs that we should consider in our CBA.**

No comment.

***Q42:* Please provide estimates for familiarisation costs and implementation costs for the proposed new overarching provisions, if possible.**

No comment.

***Q43:* To assist us to quantify the costs of our proposals, please provide data or additional information to explain the additional costs to issuers, advisors or sponsors.**

No comment.

***Q44:* Are there any other considerations we should take into account?**
No comment.

***Q45:* Have we identified the areas where our proposals may impose additional costs on investors? If not, please explain the additional costs that we should consider in our CBA.**

On the whole, table 10 provides a good summary. In addition, we would like to mention our concern for all investors, but especially passive investors which hold shares in companies that are currently standard listed but which decide to delist because they find the new requirements too onerous. The value of these shareholdings is likely to decline, perhaps

dramatically, because of the loss of listing and liquidity. Passive investors may be more restricted than active investors in terms of the timing as to when they could disinvest of the shares which may mean they are forced to sell them at an inopportune point in time.

***Q46:* To assist us to quantify the costs of our proposals, please provide data or additional information to explain the additional costs to or other impacts on investors.**

No comment.

Q47: We do not know how index providers will react to our proposals, but we invite feedback on estimated impacts and costs associated with any re-balancing of indices that may arise.

No comment.

***Q48:* Have we correctly identified the costs to parties in relation to indexation as a consequence or follow-on from our proposals? To assist us to quantify these costs or any other costs we should consider, please provide data or additional information to explain the additional costs or other impacts.**

At a high level, yes. We believe the reforms will trigger a considerable amount of turnover in passive funds which will lead to higher execution costs ultimately borne by underlying investors and reducing performance.

***Q49:* Do you agree with the benefits of our proposals that we have identified above? If not, please explain why.**

We don't object to the merger of the Standard and Premium listing regimes into the new ESCC per se; our bigger concern is with regard to what the new ESCC regulations will be. As we have stated in our answers to previous questions above, some of the proposed changes (mainly those retained from the previous Discussion paper) are acceptable, but this CP introduces far more radical reforms, most notably the removal of shareholder votes for RPTs and Significant Transactions, which represent a material dilution of investor protections and which should only negatively impact market valuations in turn. We therefore don't agree with the analysis of the benefits of the overall package of proposals as outlined in paragraphs 9.12-9.13 of the CP. We find it rather hypocritical that the FCA should champion the FRC's Corporate Governance and Stewardship Codes and the favourable impact they have on corporate governance standards whilst proposing these amendments to their listing regulations at the same time. Stewardship and engagement often can only be effective when shareholders have the ultimate power of veto through a vote in their back-pocket. Without that right, companies are free to ignore investors' genuine concerns and carry on regardless. We have concerns around the knock-on effect to the future reputation of the London market of one or more major corporate governance failures that might occur as a result of these proposed rule changes.

Candidly, the UK market is not competing to win new listings from major US and European companies, regardless of what regulations are drawn up to govern the UK market. We

therefore believe that the FCA's focus should be on attracting those companies where there are realistic prospects of winning new listings, namely Emerging Markets and UK growth companies, and possibly modernising bespoke regimes for these types of issuers. A focused review of the structure and rules of AIM might address the latter; as for the former, corporate governance risks are often a material investment consideration and the loss of the shareholder vote on RPTs and Significant Transactions will make this asset class as a whole materially less attractive from an investment perspective.

Q50: Are there any additional benefits that we should consider in our CBA?

No comment.

Q51: What do you consider to be the most important factors in deciding where to list (for example, regulation, valuations, depth of capital markets, comparable peers, investor / analyst expertise, taxation, director remuneration requirements, indexation, location of main operations). Please rank your factors in order of importance.

We rank these factors in order of importance (most important first) as follows:

- Depth of capital markets
- Valuations
- Location of (company's) main operations
- Director remuneration requirements (and press attention on director's remuneration)
- Investor / analyst expertise – this varies with the sector and especially the size of the company
- Comparable peers - this varies with the sector and the size and domicile of the company
- Regulation
- Taxation (stamp duty)
- Indexation

We think it is also important to acknowledge here that the London stock market competes for listings not only with other stock exchanges around the world but also with private equity and private finance. Private finance is simply better suited to fund certain sectors of the economy and certain styles of company and we believe it would be counter-productive for London market regulations and investor protections to be watered down in what will be a failed attempt to lure this business to list onto public markets. Please see CFA Institute's publication: Capital Formation: The Evolving Role of Public Markets and Private Markets (2018)[8].

Q52: Do you have any suggestions as to how we might quantify the benefits of our proposals? And can you provide any evidence of the cost savings to issuers that might

[8] "Capital Formation: The Evolving Role of Public Markets and Private Markets (2018)": https://www.cfainstitute.org/advocacy/policy-positions/capital-formation

arise from our proposals to no longer obtain shareholder approval for certain significant transactions and RPTs?

No comment.