

Primary Market Procedural Note

Sponsor firms – ongoing requirements during re-organisations

The information in this note is designed to help issuers and practitioners interpret our UK Listing Rules, Prospectus Regulation Rules, Disclosure Guidance and Transparency Rules, and related legislation. The guidance notes provide answers to the most common queries we receive and represent FCA guidance as defined in section 139A FSMA

Rules

UKLR 24.4.5R; UKLR 24.4.10R; UKLR 24.5.20R; UKLR 24.5.22R

Sponsor firms ongoing requirements during re-organisations

In the event a sponsor firm is the subject of a re-organisation, whether because the firm acquires or is acquired by another sponsor or there is otherwise a change of control, there may be a transitional period during which the sponsor needs to be particularly mindful of the ongoing requirement to meet comply with the criteria for approval as a sponsor at all times (UKLR 24.4.10R). These criteria require, among other things, that an authorised approved sponsor must remain competent to perform provide sponsor services and have appropriate systems and controls in place (UKLR 24.4.5R). Firms undertaking re-organisations need to bear in mind in particular that changes in

staffing, whether by way of internal transfers or redundancy, may result in the competence criteria no longer being met, since the FCA considers that sponsor competence often resides within individuals or teams of individuals.

Contact with the Primary Market Specialist Supervision team

While it is appreciated that some sponsor firms may be liaising with other departments in relation to the re-organisation (for example, where a change of control is proposed), it is important that, in addition, all sponsor firms contact the Primary Market Specialist Supervision (PMSS) team at an early stage in the process.

The PMSS team needs to understand the likelihood of the sponsor firm continuing to meet the criteria for approval during the transitional phase and post-reorganisation. This is particularly critical where a sponsor is currently providing sponsor services on a live transaction since it is essential that there is an approved competent sponsor on the transaction at all times.

The sponsor firm should expect to provide the PMSS team with the following information on a proposed re-organisation, although the exact nature of the information requested will depend on the circumstances:

- an outline of the proposed re-organisation including the business rationale behind it and the likely impact on the firm's sponsor offering
- the anticipated timeline of events, bearing in mind that the PMSS team will require sufficient time to consider the information provided
- confirmation that there will be no change in the legal status of the entity providing sponsor services; if a change in legal entity is envisaged, for instance as part of a group re-structuring, firms should be aware that a new sponsor application will be required (and relevant fee)
- whether the sponsor firm is, or is contemplating, providing sponsor services on a sponsor transaction during the transitional phase and (where relevant) how the sponsor proposes to manage such a transaction to ensure that an eligible sponsor is acting on the

transaction at all times (which would include providing details of how the transaction will be staffed)

- likely staffing changes and any impact on sponsor competence (particularly for those staff in whom relevant experience and expertise in the provision of sponsor services may reside)
- likely changes to post-reorganisation systems and controls and any impact on sponsor competence and
- any changes to contact personnel.

Relevant considerations

Every re-organisation is different, but sponsors should be aware of issues that typically arise such as the following:

Change in legal entity

If the legal status of the entity providing sponsor services is to change, for example as a result of a group re-structuring, then this will ordinarily require the sponsor firm to submit a new sponsor application and the appropriate fee. New sponsor applications can take some time to process and this time should be factored into the firm's timetable.

Voluntary cancellation of sponsor

Where a re-organisation results in a sponsor being acquired, the selling firm may need to cancel its sponsor status. Any letter of cancellation should comply with UKLR 24.5.20R and its contents and timing should be discussed in good time with PMSS, who can provide a pro-forma letter of cancellation if required.

Suspension of approval at a sponsor's request

Where a re-organisation is likely to have only a short-term impact on a sponsor's ability to comply with the sponsor approval criteria, the sponsor may prefer to request a suspension of its approval. This may provide the sponsor with the necessary time to take remedial action to ensure it can comply with the sponsor approval criteria in the future and also help the sponsor avoid the administrative and financial costs of re-applying to become a sponsor following a cancellation. A suspension request must be in writing and include the information set out in UKLR 24.5.22R. Its contents and timing should be discussed in good time with the PMSS team, who can provide a pro-forma letter if

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required. (For further information see Technical Note 712 – Additional powers to supervise and discipline sponsors.)

Change of name

Where a sponsor changes its name following a re-organisation, the sponsor should provide the PMSS team with a copy of the Certificate of Incorporation on Change of Name. This will enable the PMSS team to make consequential changes to the List of Sponsors on the FCA's website.