

Chapter 5

Suspending, cancelling and restoring listing and reverse takeovers: All securities

5.1 Suspending listing

FCA may suspend listing

5.1.1

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- (1) The *FCA* may suspend, with effect from such time as it may determine, the *listing* of any *securities* if the smooth operation of the market is, or may be, temporarily jeopardised or it is necessary to protect investors. [Note: article 18(1) *CARD*]
- (2) An *issuer* that has the *listing* of any of its *securities* suspended must continue to comply with all *listing rules* applicable to it.
- (3) If the *FCA* suspends the *listing* of any *securities*, it may impose such conditions on the procedure for lifting the suspension as it considers appropriate.

Examples of when FCA may suspend

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Examples of when the *FCA* may suspend the *listing* of *securities* include (but are not limited to) situations where it appears to the *FCA* that:

- (1) the *issuer* has failed to meet its continuing obligations for *listing*; or
- (2) the *issuer* has failed to publish financial information in accordance with the *listing rules*; or
- (3) the *issuer* is unable to assess accurately its financial position and inform the market accordingly; or
- (4) there is insufficient information in the market about a proposed transaction; or
- (5) the *issuer's securities* have been suspended elsewhere; or
- (6) the *issuer* has appointed administrators or receivers, or is an *investment trust* and is winding up; or
- (7) for a *securitised derivative* that relates to a single *underlying instrument*, the *underlying instrument* is suspended; or
- (8) for a *securitised derivative* that relates to a basket of *underlying instruments*, one or more *underlying instruments* of the basket are suspended; or
- (9) for a *miscellaneous security* that carries a right to buy or subscribe for another *security*, the *security* over which the *listed miscellaneous security* carries a right to buy or subscribe has been suspended.

5.1.3 **G** The *FCA* will not suspend the *listing* of a *security* to fix its price at a particular level.

Suspension at issuer's request.....

5.1.4 **G** An *issuer* that intends to request the *FCA* to suspend the *listing* of its *securities* will need to comply with ■ LR 5.3. The *FCA* will not suspend the *listing* if it is not satisfied that the circumstances justify the suspension.

5.2 Cancelling listing

FCA may cancel listing

5.2.1 **R** The *FCA* may cancel the *listing of securities* if it is satisfied that there are special circumstances that preclude normal regular dealings in them. [Note: article 18(2) *CARD*]

Examples of when FCA may cancel

5.2.2 **G** Examples of when the *FCA* may cancel the *listing of securities* include (but are not limited to) situations where it appears to the *FCA* that:

- (1) the *securities* are no longer admitted to trading as required by these *rules*; or
- (2) the *issuer* no longer satisfies its continuing obligations for *listing*, for example if the percentage of *shares* in public hands falls below 25% or such lower percentage as the *FCA* may permit (the *FCA* may however allow a reasonable time to restore the percentage, unless this is precluded by the need to maintain the smooth operation of the market or to protect investors); or
- (3) the *securities' listing* has been suspended for more than six months;
- (4) the *securities* are *equity shares* with a *standard listing* issued by an *investment entity* where the *investment entity* no longer has a *premium listing of equity shares*.

5.2.3 **G** The *FCA* will generally seek to cancel the *listing of an issuer's equity shares or certificates representing equity securities* when the *issuer* completes a *reverse takeover*.

[Note: ■ LR 5.6 contains further detail relating to *reverse takeovers*.]

Cancellation at issuer's request

5.2.4 **R** An *issuer* must satisfy the requirements applicable to it in ■ LR 5.2.5 R to ■ LR 5.2.11CR and ■ LR 5.3 before the *FCA* will cancel the *listing of its securities* at its request.

5.2.4A **G** ■ LR 5.2.4 R applies even if the *listing of the securities* is suspended.

Cancellation of listing of securities with a premium listing

5.2.5

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Subject to ■ LR 5.2.7 R, ■ LR 5.2.10 R, ■ LR 5.2.11A R and ■ LR 5.2.12 R, an *issuer* with a *premium listing* that wishes the *FCA* to cancel the *listing* of any of its *securities* with a *premium listing* must:

- (1) send a *circular* to the holders of the relevant *securities*. The *circular* must:
 - (a) comply with the requirements of ■ LR 13.3.1 R and ■ LR 13.3.2 R (contents of all circulars);
 - (b) be submitted to the *FCA* for approval prior to publication; and
 - (c) include the anticipated date of cancellation (which must be not less than 20 *business days* following the passing of the resolution referred to in paragraph (2));
- (2) in the case of a cancellation of *listing* of *equity shares*, obtain, at a general meeting, the prior approval of a resolution for the cancellation from:
 - (a) a majority of not less than 75% of the votes attaching to the *shares* voted on the resolution; and
 - (b) where an *issuer* has a *controlling shareholder*, a majority of the votes attaching to the *shares* of *independent shareholders* voted on the resolution;
- (2A) in the case of a cancellation of *listing* of *certificates representing shares*, obtain, at a meeting of the holders of the *certificates*, the prior approval of a resolution for the cancellation from:
 - (a) a majority of not less than 75% in value of the *certificates representing shares* in issue at the time of the meeting that are voted on the resolution; and
 - (b) where an *issuer* has a *controlling shareholder*, a majority in value of the *certificates representing shares* in issue at the time of the meeting that are:
 - (i) held by holders of *certificates* other than the *controlling shareholder*; and
 - (ii) that are voted on the resolution;
- (3) notify a *RIS*, at the same time as the *circular* is despatched to the relevant holders of the *securities*, of the intended cancellation and of the notice period and meeting; and
- (4) notify a *RIS* of the passing of the resolution in accordance with ■ LR 9.6.18 R or (as applicable) ■ LR 21.8.11R

5.2.5A

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- (1) [deleted]
- (2) [deleted]

5.2.6

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- 5.2.7** **R** ■ LR 5.2.5 R (2) and (2A) will not apply where an *issuer of securities* notifies a *RIS*:
- (1) that the financial position of the *issuer* or its *group* is so precarious that, but for the proposal referred to in ■ LR 5.2.7 R (2), there is no reasonable prospect that the *issuer* will avoid going into formal insolvency proceedings;
 - (2) that there is a proposal for a transaction, arrangement or other form of reconstruction of the *issuer* or its *group* which is necessary to ensure the survival of the *issuer* or its *group* and the continued *listing* would jeopardise the successful completion of the proposal;
 - (3) explaining;
 - (a) why the cancellation is in the best interests of those to whom the *issuer* or its *directors* have responsibilities (including the bodies of *securities* holders and creditors, taken as a whole); and
 - (b) why the approval of shareholders or, in the case of *certificates representing shares*, holders of certificates will not be sought prior to the cancellation of *listing*; and
 - (4) giving at least 20 *business days* notice of the intended cancellation.

5.2.7A **R** Where an *investment entity* no longer has a *premium listing* of *equity shares* it must apply under ■ LR 5.2.8 R for *cancellation* of the *listing* of any other class of *listed equity shares*.

Requirements for cancellation of other securities

5.2.8 **R** An *issuer* that wishes the *FCA* to cancel the *listing* of *listed securities* (other than *securities* with a *premium listing*) must notify a *RIS*, giving at least 20 *business days* notice of the intended cancellation but is not required to obtain the approval of the holders of those *securities* contemplated in ■ LR 5.2.5 R (2) or (2A).

5.2.9 **R** *Issuers* with *debt securities* falling under ■ LR 5.2.8 R must also notify, in accordance with the terms and conditions of the *issue* of those *securities*, holders of those *securities* or a representative of the holders, such as a trustee, of intended cancellation of those *securities*, but the prior approval of the holders of those *securities* in a general meeting need not be obtained.

Cancellation in relation to takeover offers: offeror interested in 50% or less of voting rights

5.2.10 **R** ■ LR 5.2.5 R does not apply to the cancellation of *securities* with a *premium listing* in the case of a takeover offer if:

- (1) the *offeror* or any *controlling shareholder* who is an *offeror* is interested in 50% or less of the voting rights of an *issuer* before announcing its firm intention to make its takeover offer;
- (2) the *offeror* has by virtue of its shareholdings and acceptances of its takeover offer, acquired or agreed to acquire issued *share capital* carrying 75% of the voting rights of the *issuer*; and

(3) the *offeror* has stated in the offer document or any subsequent *circular* sent to the holders of the shares that a notice period of not less than 20 *business days* prior to cancellation will commence either on the *offeror* obtaining the required 75% as described in ■ LR 5.2.10 R (2) or on the first date of issue of compulsory acquisition notices under section 979 of the Companies Act 2006 (Right of offeror to buy out minority shareholder).

5.2.10A **R** For the purposes of ■ LR 5.2.10 R (3), the offer document or *circular* must make clear that the notice period begins only when the *offeror* has announced that it has acquired or agreed to acquire *shares* representing 75% of the voting rights.

5.2.11 **R** The *issuer* must notify shareholders and, in the case of *certificates representing shares*, holders of certificates that the required 75% has been obtained and that the notice period has commenced and of the anticipated date of cancellation, or the explanatory letter or other material accompanying the section 979 notice must state that the notice period has commenced and the anticipated date of cancellation.

Cancellation in relation to takeover offers: offeror interested in more than 50% of voting rights

5.2.11A **R** ■ LR 5.2.5 R does not apply to the cancellation of *securities* with a *premium listing* in the case of a takeover offer if:

- (1) the *offeror* or any *controlling shareholder* who is an *offeror* is interested in more than 50% of the voting rights of an *issuer* before announcing its firm intention to make its takeover offer;
- (2) the *offeror* has by virtue of its shareholdings and acceptances of its takeover offer, acquired or agreed to acquire issued *share* capital carrying 75% of the voting rights of the *issuer*;
- (3) the *offeror* has obtained acceptances of its takeover offer or acquired or agreed to acquire *shares* from *independent shareholders* that represent a majority of the voting rights held by the *independent shareholders* on the date its firm intention to make its takeover offer was announced; and
- (4) the *offeror* has stated in the offer document or any subsequent *circular* sent to the holders of the *shares* that a notice period of not less than 20 *business days* prior to cancellation will commence either on the *offeror* obtaining the relevant shareholding and acceptances as described in ■ LR 5.2.11A R (2) to ■ (3) or on the first date of issue of compulsory acquisition notices under section 979 of the Companies Act 2006.

5.2.11B **R** For the purposes of ■ LR 5.2.11A R (4), the offer document or *circular* must make clear that the notice period begins only when the *offeror* has announced that it has acquired or agreed to acquire *shares* representing 75% of the voting rights and, if relevant, has obtained acceptances of its takeover offer or acquired or agreed to acquire *shares* from *independent*

shareholders that represent a majority of the voting rights held by the *independent shareholders*.

5.2.11C **R** The *issuer* must notify shareholders and, in the case of *certificates representing shares*, holders of certificates that the relevant thresholds described in **LR 5.2.11A R (2)** to **LR 5.2.11A R (3)** have been obtained and that the notice period has commenced and of the anticipated date of cancellation, or the explanatory letter or other material accompanying the section 979 notice must state that the notice period has commenced and the anticipated date of cancellation.

5.2.11D **R** [deleted]

Cancellation as a result of schemes of arrangement etc

5.2.12 **R** **LR 5.2.5 R** and **LR 5.2.8 R** do not apply to the cancellation of *equity shares* and *certificates representing shares* as a result of:

- (1) a takeover or restructuring of the *issuer* effected by a scheme of arrangement under Part 26 of the Companies Act 2006; or
- (2) an administration or liquidation of the *issuer* pursuant to a court order under the Insolvency Act 1986, Building Societies Act 1986, Water Industry Act 1991, Banking Act 2009, Energy Act 2011 or the Investment Bank Special Administration Regulations 2011; or
- (3) the appointment of an administrator under paragraphs 14 (appointment by holder of floating charge) or 22 (appointment by company or directors) of Schedule B1 to the Insolvency Act 1986; or
- (4) a resolution for winding up being passed under section 84 of the Insolvency Act 1986; or
- (5) the appointment of a provisional liquidator by the court under section 135 of the Insolvency Act 1986; or
- (6) a company voluntary arrangement pursuant to Part 1 of the Insolvency Act 1986, subject to the time limits for the challenge of decisions made set out in Part 1 of the Insolvency Act 1986 having expired; or
- (7) statutory winding up or reconstruction measures in relation to an *overseas issuer* under equivalent *overseas* legislation having similar effect to those set out in (1) to (6).

5.2.13 **G** In determining whether the statutory winding up or reconstruction measures in relation to an *overseas issuer* under equivalent *overseas* legislation have a similar effect to those set out in **LR 5.2.12R (1)** to **LR 5.2.12R (6)**, the FCA will in particular have regard to whether those procedures require a court order, the approval of 75% of the shareholders entitled to vote on the resolution, or a formal declaration of the *overseas issuer's* insolvency or inability to pay its debts.

5.3 Requests to cancel or suspend

Information to be included in request to suspend or cancel

5.3.1

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A request by an *issuer* for the *listing* of its *securities* to be suspended or cancelled must be in writing and must include:

- (1) the *issuer's* name;
- (2) details of the *securities* to which it relates and the *RIEs* on which they are traded;
- (3) a clear explanation of the background and reasons for the request;
- (4) the date on which the *issuer* requests the suspension or cancellation to take effect;
- (5) for a suspension, the time the *issuer* wants the suspension to take effect;
- (6) if relevant, a copy of any *circular* or announcement or other document upon which the *issuer* is relying;
- (7) if relevant, evidence of any resolution required under ■ LR 5.2.5 R;
- (8) if being made by an agent on behalf of the *issuer*, confirmation that the agent has the *issuer's* authority to make it;
- (9) the name and contact details of the *person* at the *issuer* (or, if appropriate, an agent) with whom the *FCA* should liaise in relation to the request;
- (10) if the *issuer* is making a conditional request, a clear statement of the applicable conditions;
- (11) a copy of any announcement the *issuer* proposes to notify to a *RIS* that it is relying on in making its request to suspend or cancel; and
- (12) a copy of any announcement the *issuer* proposes to notify to a *RIS* announcing the suspension or cancellation.

5.3.2

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The *issuer* must also include with a request to cancel the *listing* of its *securities* the following:

- (1) if the cancellation is to take effect after the completion of the compulsory acquisition procedures under Chapter 3 of Part 28 of the

Companies Act 2006, a copy of the notice sent to dissenting shareholders of the offeree together with written confirmation that there have been no objections made to the court within the prescribed period;

- (2) for a cancellation referred to in ■ LR 5.2.10 R or ■ LR 5.2.11A R an extract from, or a copy of, the offer document or relevant circular clearly showing the intention to cancel the offeree's *listing* and a copy of the announcement stating the date on which the cancellation was expected to take effect; and
- (3) if a cancellation is to take place after a scheme of arrangement becomes effective under section 899 of the Companies Act 2006 and a new *company* is to be *listed* as a result of that scheme, either:
 - (a) a copy of the certificate from the Registrar of Companies that the scheme has become effective; or
 - (b) documents which demonstrate adequately that the scheme will become effective on a specified date in the future.

5.3.3 **G** Announcements referred to in ■ LR 5.3.1 R (12) should be issued after the dealing notice issued on a *RIS* announcing the suspension or cancellation.

Timing of suspension requests

5.3.4 **G** A written request by an *issuer* to have the *listing* of its *securities* suspended should be made as soon as practicable. Suspension requests received for the opening of the market should allow sufficient time for the *FCA* to deal with the request before trading starts.

Timing of cancellation requests

5.3.5 **R** A written request by an *issuer* to have the *listing* of its *securities* cancelled must be made not less than 24 hours before the cancellation is expected to take effect.

5.3.6 **G** Cancellations will only be specified to take effect when the market opens on a specified day. An *issuer* should therefore ensure that all accompanying information has been provided to the *FCA* well before the date on which the *issuer* wishes the cancellation to take effect and at the very latest by 3 p.m. on the *business day* before it is to take effect. If the information is received after 3:00 p.m. on the day before the *issuer* wishes the cancellation to take effect, it will normally be specified to take effect at the start of the *business day* following the next day.

Withdrawing request

5.3.7 **G** (1) If an *issuer* requests the *FCA* to suspend or cancel the *listing* of its *securities*, it may withdraw its request at any time before the suspension or 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.

- (2) Even if an *issuer* withdraws its request, the *FCA* may still suspend or cancel the *listing* of the *securities* if it considers it is necessary to do so.
- (3) If an *issuer* has published either a statement or a *circular* that states that the *issuer* is, or intends, to seek a suspension or cancellation and the *issuer* no longer intends to do so, it should, as soon as possible, notify a *RIS* with a statement to that effect.

Notice of cancellation or suspension

5.3.8

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If an *issuer* requests the *FCA* to suspend or cancel the *listing* of its *securities* under ■ LR 5.3.1 R and the *FCA* agrees to do so, the notification given by the *FCA* to the *issuer* will include the following information:

- (1) the date on which the suspension or cancellation took effect or will take effect;
- (2) details of the suspension or cancellation; and
- (3) in relation to requests for suspension, details of the *issuer's* right to apply for the suspension of its *listed securities* to be cancelled.

5.4 Restoring listing

Revoking a cancellation of listing

- 5.4.1 **G** If an *issuer* has the *listing* of its *securities* cancelled, it may only have them readmitted to the *official list* by re-applying for their listing.

Restoring a listing that is suspended

- 5.4.2 **R** The *FCA* may restore the *listing* of any *securities* that have been suspended if it considers that the smooth operation of the market is no longer jeopardised or if the suspension is no longer required to protect investors. The *FCA* may restore the *listing* even though the *issuer* does not request it.

Requests to restore

- 5.4.3 **G**
- (1) An *issuer* that has the *listing* of any of its *securities* suspended may request the *FCA* to have them restored.
 - (2) The request should be made sufficiently in advance of the time and date the *issuer* wishes the *securities* to be restored.
 - (3) Requests received for when the market opens should allow sufficient time for the *FCA* to deal with the request.
 - (4) The request may be an oral request. The *FCA* may require documentary evidence that the events that lead to the suspension are no longer current (for example, financial reports have been published or an appropriate announcement has been made) to process the request.
 - (5) Even if restoration is required urgently, it will normally take up to 30 minutes to be effected.
 - (6) The *FCA* will issue a dealing notice on a *RIS* announcing the restoration.

Refusal of request to restore

- 5.4.4 **R** The *FCA* will refuse a request to restore the *listing* of *securities* if it is not satisfied of the matters set out in ■ LR 5.4.2 R.

Withdrawal of a request to restore securities

5.4.5

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- (1) If an *issuer* has requested the *FCA* to restore the *listing* of any *securities*, it may withdraw its request at any time while the *securities* are still suspended. The withdrawal request should initially be made by telephone and then confirmed in writing as soon as possible.
- (2) Even if a request to restore has been withdrawn, the *FCA* may restore the listing of *securities* if it believes the circumstances justify it.

Restoring listing of securitised derivatives

5.4.6

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- (1) If an *underlying instrument* is restored, the *securitised derivative's listing* will normally be restored.
- (2) For a *securitised derivative* relating to a basket of *underlying instruments* that has been suspended, the *securitised derivative's listing* may be restored by the *FCA*, irrespective of whether or not the *underlying instrument* has been restored, if:
 - (a) the *issuer* of the *securitised derivative* confirms to the *FCA* that despite the relevant *underlying instrument(s)* suspension a market in the *securitised derivative* will continue to be made; and
 - (b) the *FCA* is satisfied that restoring the *securitised derivative* is not inconsistent with either the protection of investors or the smooth operation of the market.

5.4.7

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For a *miscellaneous security* that carries a right to buy or subscribe for another *security*, the *miscellaneous security's listing* will be restored if the *security* over which the *miscellaneous security* carries a right to buy or subscribe is restored.

5.4A Transfer between listing categories

Application

5.4A.1

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This section applies to an *issuer* that wishes to transfer the category of its *listing* from:

- (1) a *standard listing (shares)* to a *premium listing (commercial company)*;
or
- (2) a *standard listing (shares)* to a *premium listing (investment company)*;
or
- (2A) a *standard listing (shares)* to a *premium listing (sovereign controlled commercial company)*; or
- (2B) a *standard listing (certificates representing certain securities)* to a *premium listing (sovereign controlled commercial company)*; or
- (3) a *premium listing (commercial company)* to a *standard listing (shares)*;
or
- (4) a *premium listing (investment company)* to a *premium listing (commercial company)*; or
- (5) a *premium listing (commercial company)* to a *premium listing (investment company)*; or
- (6) a *premium listing (investment company)* to a *standard listing (shares)*.
- (7) a *premium listing (commercial company)* to a *premium listing (sovereign controlled commercial company)*; or
- (8) a *premium listing (sovereign controlled commercial company)* to a *premium listing (commercial company)*; or
- (9) a *premium listing (investment company)* to a *premium listing (sovereign controlled commercial company)*; or
- (10) a *premium listing (sovereign controlled commercial company)* to a *premium listing (investment company)*; or
- (11) a *premium listing (sovereign controlled commercial company)* to a *standard listing (shares)*; or
- (12) a *premium listing (sovereign controlled commercial company)* to a *standard listing (certificates representing certain securities)*.

5.4A.2 **G** An *issuer* will only be able to transfer a *listing* of its *equity shares* from a *premium listing (investment company)* to a *standard listing (shares)* if it has ceased to be an *investment entity* (for example if it has become a commercial company) or if it continues to have a *premium listing* of a class of *equity shares*. This is because **LR 14.1.1 R** provides that **LR 14** does not apply to *equity shares* of an *investment entity* without a *premium listing* of *equity shares*.

Initial notification to the FCA

5.4A.3 **R**

- (1) If an *issuer* wishes to transfer the category of its *listing* it must notify the *FCA* of the proposal.
- (2) The notification must be made as early as possible and in any event not less than 20 business days before it sends the *circular* required under **LR 5.4A.4 R (2)(a)** or publishes the announcement required under **LR 5.4A.5 R (2)**.
- (3) The notification must include:
 - (a) an explanation of why the *issuer* is seeking the transfer;
 - (b) if a *sponsor's* letter is not required under **LR 8.4.14R(1)**, an eligibility letter setting out how the *issuer* satisfies each *listing rule* requirement relevant to the category of *listing* to which it wishes to transfer;
 - (c) a proposed timetable for the transfer; and
 - (d) if an announcement is required to be published under **LR 5.4A.5R (2)**, a draft of that announcement.

Shareholder approval required in certain cases

5.4A.4 **R**

- (1) This rule applies to a transfer of the *listing* of:
 - (a) *equity shares* with a *premium listing* into or out of the category of *premium listing (investment company)*; or
 - (b) *equity shares* with a *premium listing* out of the category of *premium listing (commercial company)*; or
 - (c) *equity shares* or *certificates representing shares* with a *premium listing* out of the category of *premium listing (sovereign controlled commercial company)* into the category of *standard listing (shares)* or *standard listing (certificates representing certain securities)*.
- (2) The *issuer* must:
 - (a) send a *circular* to the holders of the *equity shares* or the *certificates representing shares*, as applicable;
 - (b) notify a *RIS*, at the same time as the *circular* is despatched to the relevant holders of the *equity shares* or the *certificates representing shares* (as applicable), of the intended transfer and of the notice period and meeting date; and
 - (c) [deleted]
 - (d) notify a *RIS* of the passing of the resolution required under (3) below.

- (3) (a) In the case of a transfer of the *listing of equity shares* with a *premium listing* into or out of the category of *premium listing (investment company)*, the *issuer* must obtain at a general meeting the prior approval of a resolution for the transfer from a majority of not less than 75% of the votes attaching to the *shares* voted on the resolution; or
- (b) in the case of a transfer of the *listing of equity shares* with a *premium listing (commercial company)* into the category of *standard listing (shares)*, the *issuer* must obtain at a general meeting the prior approval of a resolution for the transfer from:
- (i) a majority of not less than 75% of the votes attaching to the *shares* voted on the resolution; and
 - (ii) where an *issuer* has a *controlling shareholder*, a majority of the votes attaching to the *shares of independent shareholders* voted on the resolution; or
- (c) in the case of a transfer of the *listing of equity shares* with a *premium listing (commercial company)* into the category of *premium listing (sovereign controlled commercial company)*, the *issuer* must obtain at a general meeting the prior approval of a resolution for the transfer from:
- (i) a majority of not less than 75% of the votes attaching to the *shares* voted on the resolution; and
 - (ii) where an *issuer* has a *controlling shareholder*, a majority of the votes attaching to the *shares of independent shareholders* voted on the resolution; or
- (d) in the case of a transfer of the *listing of equity shares* with a *premium listing (sovereign controlled commercial company)* into the category of *standard listing (shares)*, the *issuer* must obtain at a general meeting the prior approval of a resolution for the transfer from:
- (i) a majority of not less than 75% of the votes attaching to the *shares* voted on the resolution; and
 - (ii) where an *issuer* has a *controlling shareholder*, a majority of the votes attaching to the *shares of independent shareholders* voted on the resolution; or
- (e) in the case of a transfer of the *listing of certificates representing shares* with a *premium listing (sovereign controlled commercial company)* into the category of *standard listing (certificates representing certain securities)*, the *issuer* must obtain, at a meeting of the holders of the certificates, the prior approval of a resolution for the transfer from:
- (i) a majority of not less than 75% in value of the *certificates representing shares* in issue at the time of the meeting that are voted on the resolution; and
 - (ii) where an *issuer* has a *controlling shareholder*, a majority in value of the *certificates representing shares* in issue at the time of the meeting that are:
 - (A) held by holders of certificates other than the *controlling shareholder*; and
 - (B) that are voted on the resolution.

Announcement required in other cases

- 5.4A.5 **R** (1) This rule applies to any transfer of a *listing of equity shares* or *certificates representing shares* other than a transfer referred to in ■ LR 5.4A.4 R (1).
- (2) The *issuer* must publish an announcement on a *RIS* giving notice of its intention to transfer its listing category.

Approval and contents of circular

- 5.4A.6 **R** The *circular* referred to in ■ LR 5.4A.4 R must:
- (1) comply with the requirements of ■ LR 13.1, ■ LR 13.2 and ■ LR 13.3;
- (2) be approved by the *FCA* before it is circulated or published; and
- (3) include the anticipated transfer date (which must be not less than 20 business days after the passing of the resolution under ■ LR 5.4A.4 R).

Approval and contents of announcement

- 5.4A.7 **R** The announcement referred to in ■ LR 5.4A.5 R (2) must:
- (1) contain the same substantive information as would be required under ■ LR 13.1 and ■ LR 13.3 if it were a *circular* but modified as necessary so it is clear that no vote of holders of the relevant *securities* is required; and
- (2) include the anticipated transfer date (which must be not less than 20 business days after the date the announcement is published).

- 5.4A.8 **R** The announcement must be approved by the *FCA* before it is published.

Specific information required in circular or announcement

- 5.4A.9 **G** Information required under ■ LR 13.3.1R(1) (Contents of all circulars) to be included in the *circular* or announcement should include an explanation of:
- (1) the background and reasons for the proposed transfer;
- (2) any changes to the *issuer's* business that have been made or are proposed to be made in connection with the proposal;
- (3) the effect of the transfer on the *issuer's* obligations under the *listing rules*;
- (4) how the *issuer* will meet any new eligibility requirements, for example working capital requirements, that the *FCA* must be satisfied of under ■ LR 5.4A.12 R (3); and
- (5) any other matter that the *FCA* may reasonably require.

Applying for the transfer

5.4A.10

R

If an *issuer* has initially notified the *FCA* under ■ LR 5.4A.3 R it may apply to the *FCA* to transfer the *listing* of its *securities* from one category to another. The application must include:

- (1) the *issuer's* name;
- (2) details of the *securities* to which the transfer relates;
- (3) the date on which the *issuer* wishes the transfer to take effect;
- (4) a copy of any *circular*, announcement or other document on which the *issuer* is relying;
- (5) if relevant, evidence of any resolution required under ■ LR 5.4A.4 R;
- (6) if an agent is making the application on the *issuer's* behalf, confirmation that the agent has the *issuer's* authority to do so;
- (7) the name and contact details of the person at the *issuer* (or, if appropriate an agent) with whom the *FCA* should liaise in relation to the application; and
- (8) a copy of any announcement the *issuer* proposes to notify to a *RIS* informing the market that the transfer has taken place.

Issuer must comply with eligibility requirements

5.4A.11

R

- (1) An *issuer* applying for a transfer of its *securities* must comply with all eligibility requirements that would apply if the *issuer* was seeking admission to *listing* of the *securities* to the category of *listing* to which it wishes to transfer.
- (2) For the purposes of applying the eligibility requirements referred to in (1) to a transfer then, unless the context otherwise requires, a reference in such a requirement:
 - (a) to the admission of *securities* is to be taken to be a reference to the transfer of the *securities*; and
 - (b) to a *prospectus* or *listing particulars* is to be taken to be a reference to the *circular* or announcement.

Approval of transfer

5.4A.12

R

If an *issuer* applies under ■ LR 5.4A.10 R, the *FCA* may approve the transfer if it is satisfied that:

- (1) the *issuer* has complied with ■ LR 5.4A.4 R or ■ LR 5.4A.5 R (whichever is relevant);
- (2) the 20 business day period referred to in ■ LR 5.4A.6 R or ■ LR 5.4A.7 R (whichever is relevant) has elapsed; and
- (3) the *issuer* and the *securities* will comply with all eligibility requirements that would apply if the *issuer* was seeking admission to

listing of the securities to the category of listing to which it wishes to transfer.

5.4A.13 **G** The *FCA* will not generally reassess compliance with eligibility requirements (for example ■ LR 6.7.1R(Working capital) if the *issuer* has previously been assessed by the *FCA* as meeting those requirements under its existing *listing* category when its *securities* were *listed*.

When transfer takes effect

5.4A.14 **R**

- (1) If the *FCA* approves a transfer of a *listing* then it must announce its decision on a *RIS*.
- (2) The transfer becomes effective when the *FCA*'s decision to approve is announced on the *RIS*.
- (3) The *issuer* must continue to comply with the requirements of its existing category of *listing* until the decision is announced on the *RIS*.
- (4) After the decision is announced the *issuer* must comply with the requirements of the category of *listing* to which it has transferred.

Directive obligations

5.4A.15 **G** An *issuer* may take steps, in connection with a transfer, which require it to consider whether a *prospectus* is necessary, for example, if the *company* or its capital is reconstituted in a way that could amount to an *offer of transferable securities to the public*. The *issuer* and its advisers should consider whether directive obligations may be triggered.

Transfer as an alternative to cancellation

5.4A.16 **G** There may be situations in which an *issuer's* business has changed over a period of time so that it no longer meets the requirements of the applicable *listing* category against which it was initially assessed for *listing*. In those situations, the *FCA* may consider cancelling the *listing* of the *equity shares* or suggest to the *issuer* that, as an alternative, it applies for a transfer of its *listing* category.

5.4A.17 **G** There may be situations in which an *issuer* with a *listing* of *securities* in the category of *premium listed (sovereign controlled commercial company)* no longer has a *sovereign controlling shareholder*. In those situations, the *FCA* may consider cancelling the *listing* of the *securities* or suggest to the *issuer* that, as an alternative, it applies for a transfer of its *listing* category.

5.5 Miscellaneous

Decision-making procedures for suspension, cancellation etc

- 5.5.1 **G** The decision-making procedures that the *FCA* will follow when it cancels, suspends or refuses a request by an *issuer* to suspend, cancel or restore *listing* are set out in *DEPP* (Decision Procedure and Penalties).

Suspension, cancellation or restoration by overseas exchange or authority

- 5.5.2 **R** An *issuer* must inform the *FCA* if its listing has been suspended, cancelled or restored by an *overseas* exchange or *overseas* authority.
- 5.5.3 **G**
- (1) The *FCA* will not automatically suspend, cancel or restore the *listing* of *securities* at the request of an *overseas* exchange or *overseas* authority (for example, if listing of a *listed issuer's securities* are suspended, cancelled or restored on its home exchange).
 - (2) The *FCA* will not normally suspend the *listing* of *securities* where there is a trading halt for the *security* on its home exchange.
 - (3) If a *listed issuer* requests a suspension, cancellation or restoration of the *listing* of its *securities*, after a suspension, cancellation or restoration on its home exchange, the *issuer* should send to the *FCA* written confirmation:
 - (a) that the suspension, cancellation or restoration of listing on its home exchange has become effective; or
 - (b) if it has not yet become effective, of the time and date it is proposed to become effective.
 - (4) If an *overseas* exchange or *competent authority* requests the *FCA* to suspend, cancel or restore the *listing* of *securities*, the *FCA* will, wherever practical, contact the *issuer* or its *sponsor* before it suspends, cancels or restores the *listing*. Therefore, *issuers* are encouraged to contact the *FCA* at the same time as they contact their home exchange.
 - (5) If the *FCA* is unable to contact the *issuer* or *sponsor*, it will suspend, cancel or restore the *listing* of the *securities* when it is satisfied that the listing of the relevant *securities* has been, or will be, suspended, cancelled or restored on their home exchange.



5.6 Reverse takeovers

Application

5.6.1 **R** This section applies to an *issuer* with:

- (1) a *premium listing*;
- (2) a *standard listing (shares)*; or
- (3) a *standard listing of certificates representing equity securities*.

Categories of reverse takeover to which this section does not apply

5.6.2 **R** ■ LR 5.6 does not apply where an *issuer* acquires the *shares* or *certificates representing equity securities* of a *target* with the same category of *listing* as the *issuer*.

Class 1 requirements

5.6.3 **R** Notwithstanding the effect of ■ LR 5.6.2 R, an *issuer* with a *premium listing* must in relation to a *reverse takeover* comply with the requirements of ■ LR 10.5 (Class 1 requirements) for that transaction.

Definitions

5.6.4 **R** A *reverse takeover* is a transaction, whether effected by way of a direct acquisition by the *issuer* or a subsidiary, an acquisition by a new *holding company* of the *issuer* or otherwise, of a business, a *company* or assets:

- (1) where any *percentage ratio* is 100% or more; or
- (2) which in substance results in a fundamental change in the business or in a change in board or voting control of the *issuer*.

When calculating the *percentage ratio*, the *issuer* must apply the *class tests* and ■ LR 10.2.10R (Aggregating transactions).

5.6.5 **G** For the purpose of ■ LR 5.6.4R (2), the *FCA* considers that the following factors are indicators of a fundamental change:

- (1) the extent to which the transaction will change the strategic direction or nature of its business; or

- (2) whether its business will be part of a different industry sector following the completion of the transaction; or
- (3) whether its business will deal with fundamentally different suppliers and end users.

5.6.5A **R** A *shell company* is an *issuer* whose:

- (1) assets consist solely or predominantly of cash or short-dated *securities*; or
- (2) predominant purpose or objective is to undertake an acquisition or merger, or a series of acquisitions or mergers.

Requirement for a suspension

5.6.6 **R** A *shell company*, or in the case of a *shell company* with a *premium listing*, its *sponsor*, must contact the *FCA* as early as possible:

- (1) before announcing a *reverse takeover* which has been agreed or is in contemplation, to discuss whether a suspension of *listing* is appropriate; or
- (2) where details of the *reverse takeover* have leaked, to request a suspension.

5.6.7 **G** Examples of where the *FCA* will consider that a *reverse takeover* is in contemplation include situations where:

- (1) the *shell company* has approached the *target's* board;
- (2) the *shell company* has entered into an exclusivity period with a *target*; or
- (3) the *shell company* has been given access to begin due diligence work (whether or not on a limited basis).

5.6.8 **G** Generally, when a *reverse takeover* between a *shell company* and a *target* is announced or leaked, there will be insufficient publicly available information about the proposed transaction and the *shell company* will be unable to assess accurately its financial position and inform the market accordingly. In this case, the *FCA* will often consider that suspension will be appropriate, as set out in **LR 5.1.2G (3)** and **(4)**. However, if the *FCA* is satisfied that there is sufficient publicly available information about the proposed transaction it may agree with the *shell company* that a suspension is not required.

5.6.9 **G** **LR 5.6.10 G** to **LR 5.6.18 R** set out circumstances in which the *FCA* will generally be satisfied that a suspension is not required.

Reverse takeover by a shell company: target admitted to a regulated market

5.6.10 **G** The FCA will generally be satisfied that there is sufficient information in the market about the proposed transaction if:

- (1) the *target* has *shares or certificates representing equity securities* admitted to a *regulated market*; and
- (2) the *shell company* makes an announcement stating that the *target* has complied with the disclosure requirements applicable on that *regulated market* and providing details of where information disclosed pursuant to those requirements can be obtained.

5.6.11 **R** An announcement made for the purpose of **LR 5.6.10G (2)** must be published by means of an *RIS*.

Reverse takeover by a shell company: target subject to the disclosure regime of another market

5.6.12 **G** The FCA will generally be satisfied that there is sufficient publicly available information in the market about the proposed transaction if the *target* has *securities* admitted to an investment exchange or trading platform that is not a *regulated market* and the *shell company*:

- (1) confirms, in a form acceptable to the FCA, that the disclosure requirements in relation to financial information and *inside information* of the investment exchange or trading platform on which the *target's securities* are admitted are not materially different from the *disclosure requirements*; and
- (2) makes an announcement to the effect that:
 - (a) the *target* has complied with the disclosure requirements applicable on the investment exchange or trading platform to which its securities are admitted and provides details of where information disclosed pursuant to those requirements can be obtained; and
 - (b) there are no material differences between those disclosure requirements and the disclosure requirements under *DTR*.

5.6.13 **R** Where a *shell company* has a *premium listing*, a written confirmation provided for the purpose of **LR 5.6.12G (1)** must be given by the *shell company's sponsor*.

5.6.14 **R** An announcement made for the purpose of **LR 5.6.12G (2)** must be published by means of an *RIS*.

Reverse takeover by a shell company: target not subject to a public disclosure regime

5.6.15 **G** Where the *target* in a *reverse takeover* by a *shell company* is not subject to a public disclosure regime, or if the *target* has *securities* admitted on an investment exchange or trading platform that is not a *regulated market* but

the *shell company* is not able to give the confirmation and make the announcement contemplated by ■ LR 5.6.12 G, the *FCA* will generally be satisfied that there is sufficient publicly available information in the market about the proposed transaction such that a suspension is not required where the *shell company* makes an announcement containing:

- (1) financial information on the *target* covering the last three years. Generally, the *FCA* would consider the following information to be sufficient:
 - (a) profit and loss information to at least operating profit level;
 - (b) balance sheet information, highlighting at least net assets and liabilities;
 - (c) relevant cash flow information; and
 - (d) a description of the key differences between the *shell company's* accounting policies and the policies used to present the financial information on the *target*;
- (2) a description of the *target* to include key non-financial operating or performance measures appropriate to the *target's* business operations and the information as required under Annex 1 Section 10 (Trend information) of the *PR Regulation* (see ■ PRR Appendix 2) for the *target*;
- (3) a declaration that the *directors* of the *shell company* consider that the announcement contains sufficient information about the business to be acquired to provide a properly informed basis for assessing its financial position; and
- (4) a declaration confirming that the *shell company* has made the necessary arrangements with the *target* vendors to enable it to keep the market informed without delay of any developments concerning the *target* that would be required to be released were the *target* part of the *shell company*.

5.6.16 ■ An announcement made for the purpose of ■ LR 5.6.15 G must be published by means of an *RIS*.

5.6.17 ■ Where a *shell company* has a *premium listing*, a *sponsor* must provide written confirmation to the *FCA* that in its opinion, it is reasonable for the *shell company* to provide the declarations described in ■ LR 5.6.15G (3) and ■ (4).

5.6.18 ■ Where the *FCA* has agreed that a suspension is not necessary as a result of an announcement made for the purpose of ■ LR 5.6.15 G the *shell company* must comply with the obligation under article 17(1) of the *Market Abuse Regulation* on the basis that the *target* already forms part of the enlarged *group*.

Cancellation of listing

5.6.19 □ The *FCA* will generally seek to cancel the *listing* of an *issuer's equity shares* or *certificates representing equity securities* when the *issuer* completes a *reverse takeover*.

5.6.20 **G** ■ LR 5.6.23 G to ■ LR 5.6.29 G set out circumstances in which the *FCA* will generally be satisfied that a cancellation is not required.

5.6.21 **R** Where the *issuer's listing* is cancelled following completion of a *reverse takeover*, the *issuer* must re-apply for the *listing* of the *shares* or *certificates representing equity securities* and satisfy the relevant requirements for *listing*, except that for an *issuer* with a *premium listing*, ■ LR 6.2.1R(3) and ■ LR 6.2.4R(2) will not apply in relation to the *issuer's* accounts.

5.6.22 **G** Notwithstanding ■ LR 5.6.21 R, financial information provided in relation to the *target* will need to satisfy ■ LR 6.2.1R(3) and ■ LR 6.2.4R(2).

Acquisitions of targets from different listing categories: issuer maintaining its listing category

5.6.23 **G** Where an *issuer* acquires the *shares* or *certificates representing equity securities* of a *target* with a different *listing* category from its own and the *issuer* wishes to maintain its existing *listing* category, the *FCA* will generally be satisfied that a cancellation is not required on completion of a *reverse takeover* if:

- (1) the *issuer* will continue to be eligible for its existing *listing* category following completion of the transaction;
- (2) the *issuer* provides an eligibility letter setting out how the *issuer* as enlarged by the acquisition satisfies each *listing rule* requirement that is relevant to it being eligible for its existing *listing* category; and
- (3) the *issuer* makes an announcement or publishes a *circular* explaining:
 - (a) the background and reasons for the acquisition;
 - (b) any changes to the acquiring *issuer's* business that have been made or are proposed to be made in connection with the acquisition;
 - (c) the effect of the transaction on the acquiring *issuer's* obligations under the *listing rules*;
 - (d) (where appropriate) how the acquiring *issuer* will continue to meet the eligibility requirements referred to in ■ LR 5.6.21 R; and
 - (e) any other matter that the *FCA* may reasonably require.

5.6.24 **R** An announcement or circular published for the purpose of ■ LR 5.6.23 G must be published by means of an *RIS*.

5.6.25 **R** An eligibility letter prepared for the purposes of ■ LR 5.6.23 G must be provided to the *FCA* not less than 20 *business days* prior to the announcement of the transaction referred to in ■ LR 5.6.24 R.

5.6.26 **R** Where an *issuer* has a *premium listing*, the eligibility letter provided for the purposes of ■ LR 5.6.23 G must be provided by a *sponsor*.

**Acquisitions of targets from different listing categories: issuer
changing listing category**

- 5.6.27 **G** The *FCA* will generally be satisfied that a cancellation is not required on completion of a *reverse takeover* if the *target* is *listed* with a different *listing* category from that of the *issuer* and the *issuer* wishes to transfer its *listing* to a different *listing* category in conjunction with the acquisition and the *issuer* as enlarged by the relevant acquisition complies with the relevant requirements of ■ LR 5.4A to transfer to a different *listing* category.
- 5.6.28 **G** An *issuer* wishing to transfer a *listing* of its *equity shares* from a *premium listing (investment company)* to a *standard listing (shares)* should note ■ LR 5.4A.2 G which sets out limitations resulting from the application of ■ LR 14.1.1 R (application of the *listing rules* to a *company* with or applying for a *standard listing of shares*).
- 5.6.29 **G** Where an issuer is applying ■ LR 5.4A in order to avoid a cancellation as contemplated by ■ LR 5.6.27 G, the *FCA* will normally waive the requirement for shareholder approval under ■ LR 5.4A.4R (2)(c) where the *issuer* is obtaining separate shareholder approval for the acquisition.