

## Chapter 11

# Closed-ended investment funds: requirements for listing and continuing obligations

## 11.2 Requirements for listing

- 11.2.1 **R** To be *listed*, an *applicant* must comply with:
- (1) the following provisions of **UKLR 5** (*Equity shares (commercial companies)*): requirements for admission to listing), modified so that references to the *equity shares (commercial companies)* category are to the *closed-ended investment funds* category:
    - UKLR 5.4.1R(1);
    - UKLR 5.4.2R to ■ UKLR 5.4.4G;
    - UKLR 5.4.7R;
    - UKLR 5.5.1R to ■ UKLR 5.5.4G; and
    - UKLR 5.6.1R; and
  - (2) ■ UKLR 11.2.3R to ■ UKLR 11.2.15R.
- Shares of a third country applicant**.....
- 11.2.2 **R** The *FCA* will not admit *shares* of an *applicant* incorporated in a *third country* that are not listed either in its country of incorporation or in the country in which a majority of its *shares* are held, unless the *FCA* is satisfied that the absence of the listing is not due to the need to protect investors.
- Investment activity**.....
- 11.2.3 **R** An *applicant* must invest and manage its assets in a way which is consistent with its object of spreading investment risk.
- 11.2.4 **R**
- (1) An *applicant* and its *subsidiary undertakings* must not conduct any trading activity which is significant in the context of its *group* as a whole.
  - (2) This *rule* does not prevent the businesses forming part of the investment portfolio of the *applicant* from conducting trading activities themselves.
- 11.2.5 **G** Although there is no restriction on an *applicant* taking a controlling stake in an investee company, to ensure a spread of investment risk an *applicant* should avoid:

- (1) cross-financing between the businesses forming part of its investment portfolio including, for example, through the provision of undertakings or security for borrowings by such businesses for the benefit of another; and
- (2) the operation of common treasury functions as between the *applicant* and investee companies.

**Cross-holdings**

- 11.2.6 **R**
- (1) No more than 10%, in aggregate, of the value of the total assets of an *applicant* at admission may be invested in other *listed closed-ended investment funds*.
  - (2) The restriction in (1) does not apply to investments in *closed-ended investment funds* which themselves have published investment policies to invest no more than 15% of their total assets in other *listed closed-ended investment funds*.

**Feeder funds**

- 11.2.7 **R**
- (1) If an *applicant* principally invests its funds in another *company* or fund that invests in a portfolio of *investments* (a 'master fund'), the *applicant* must ensure that:
    - (a) the master fund's investment policies are consistent with the *applicant's* published investment policy and provide for spreading investment risk; and
    - (b) the master fund in fact invests and manages its investments in a way that is consistent with the *applicant's* published investment policy and spreads investment risk.
  - (2) Paragraph (1) applies whether the *applicant* invests its funds in the master fund directly or indirectly through other intermediaries.
  - (3) Where the *applicant* invests in the master fund through a chain of intermediaries between the *applicant* and the master fund, the *applicant* must ensure that each intermediary in the chain complies with paragraphs (1)(a) and (b).

**Investment policy**

11.2.8 **R** An *applicant* must have a published investment policy that contains information about the policies which the *closed-ended investment fund* will follow relating to asset allocation, risk diversification, and gearing, and that includes maximum exposures.

11.2.9 **G** The information in the investment policy, including quantitative information concerning the exposures mentioned in **UKLR 11.2.8R**, should be sufficiently precise and clear as to enable an investor to:

- (1) assess the investment opportunity;

- (2) identify how the objective of risk spreading is to be achieved; and
- (3) assess the significance of any proposed change of investment policy.

**Independence**

- 11.2.10 **R** The board of *directors* or equivalent body of the *applicant* must be able to act independently:
  - (1) of any *investment manager* appointed to manage *investments* of the *applicant*; and
  - (2) if the *applicant* (either directly or through other intermediaries) has an investment policy of principally investing its funds in another *company* or fund that invests in a portfolio of investments (a 'master fund'), of the master fund and of any *investment manager* of the master fund.
  
- 11.2.11 **R** ■ UKLR 11.2.10R(2) does not apply if the *company* or fund which invests its funds in another *company* or fund is a *subsidiary undertaking* of the *applicant*.
  
- 11.2.12 **R** For the purposes of ■ UKLR 11.2.10R:
  - (1) the chair of the board or equivalent body of the *applicant* must be independent; and
  - (2) a majority of the board or equivalent body of the *applicant* must be independent (the chair may be included within that majority).
  
- 11.2.13 **R** For the purposes of ■ UKLR 11.2.10R and ■ UKLR 11.2.12R, the following are not independent:
  - (1) *directors, employees, partners, officers or professional advisers* of or to:
    - (a) an *investment manager* of the *applicant*;
    - (b) a master fund or *investment manager* referred to in ■ UKLR 11.2.10R(2); or
    - (c) any other *company* in the same *group* as the *investment manager* of the *applicant*; or
  - (2) (subject to ■ UKLR 11.2.14R) *directors, employees or professional advisers* of or to other investment *companies* or funds that are:
    - (a) managed by the same *investment manager* as the *investment manager* to the *applicant*; or
    - (b) managed by any other *company* in the same *group* as the *investment manager* to the *applicant*.
  
- 11.2.14 **R** (i) This *rule* applies where a *closed-ended investment fund* has an *external AIFM* which has delegated portfolio management to another

*investment manager* who is not in the same *group* as the *external AIFM*.

- (2) Where this *rule* applies, the fact that a *director* of the *closed-ended investment fund* is also the *director* of another *investment company* or fund that is managed by the same *external AIFM* (or another *company* in the same *group* as the *external AIFM*) does not prevent that *director* from being regarded as independent for the purposes of ■ UKLR 11.2.10R and ■ UKLR 11.2.12R.

11.2.15 **R** A person referred to in ■ UKLR 11.2.13R(1) or ■ (2) who is a *director* of the *applicant* must be subject to annual re-election by the *applicant's* shareholders, unless they are independent in accordance with ■ UKLR 11.2.14R.

11.2.16 **R** The board of *directors* or equivalent body of the *applicant* must be in a position to effectively monitor and manage the performance of its key service providers, including any *investment manager* of the *applicant*.