

# Structure of the Listing Rules, Prospectus Rules, and the Disclosure and Transparency Rules.

## Listing Rules (LR)

There are five listing segments on the Official List of the LSE:

- primary listing of equity securities
- secondary listing of equity securities (foreign companies only)
- debt
- securitised derivatives, SDs
- global depositary receipts (GDRs) (foreign companies only)

A GDR is a bank certificate issued in more than one country for shares in a foreign company. Only the primary listing of equity securities has to meet standards higher than the “directive minimum”. All other forms of trading, including AIM and PLUS, have only to meet the standards laid down in the directives.

### United Kingdom Listing Authority listing rules

Reference code	Title
<a href="#">LR 1</a>	Preliminary
<a href="#">LR 2</a>	Requirements for listing
<a href="#">LR 3</a>	Listing applications
<a href="#">LR 4</a>	Listing particulars for professional securities market and certain other securities
<a href="#">LR 5</a>	Suspending, cancelling and restoring listing
<a href="#">LR 6</a>	Additional requirements for listing for equity securities
<a href="#">LR 7</a>	Listing Principles
<a href="#">LR 8</a>	Sponsors
<a href="#">LR 9</a>	Continuing obligations
<a href="#">LR 10</a>	Significant transactions
<a href="#">LR 11</a>	Related party transactions
<a href="#">LR 12</a>	Dealing in own securities and treasury shares
<a href="#">LR 13</a>	Contents of circulars
<a href="#">LR 14</a>	Secondary listing of overseas companies
<a href="#">LR 15</a>	Closed-Ended Investment Funds
<a href="#">LR 16</a>	Open-ended investment companies
<a href="#">LR 17</a>	Debt and specialist securities
<a href="#">LR 18</a>	Certificates representing certain securities
<a href="#">LR 19</a>	Securitised derivatives
<a href="#">LR App 1</a>	Relevant definitions
<a href="#">LR App 2</a>	Fees and financial penalty income
<a href="#">LR App 3</a>	List of Regulatory Information Services
<a href="#">LR transchedule</a>	Transitional Provisions

The Listing Rules deal with the following matters.

### LR1: preliminary

This deals with the application of the listing rules, the procedure for modification or dispensation of a requirement of the rules, and providing accurate information to the FSA and to the public.

### LR2: requirements for listing – all securities

This deals with the requirements for eligibility for admission to the main market of the LSE. For example, shares must be freely transferable, so there must be no restrictions in the company’s articles of association on the transfer of shares. The total market value of the issue of securities in question must be at least £700,000 for shares and £ 200,000 for debt securities

### **LR3: listing applications**

This contains the requirements for the documents to be provided when applying to list shares, and debt and other securities.

### **LR4: listing particulars and the professional securities market**

These are the rules for issuers wishing to admit securities to listing in those cases where the application is outside the scope of the Prospectus Rules. This LR is primarily directed at offers of securities on the professional securities market. This was a new market created by the LSE for specialist securities such as Eurobonds, convertible and asset backed securities and depositary receipts. The concern was that international issuers might be driven away from the UK market by the requirements of the Prospectus Rules and the Transparency Rules. Consequently, securities admitted to the professional securities market usually benefit from an exemption and, if so, do not need to publish a prospectus. The securities on this market are offered to buyers in high minimum denominations, or marketed only to qualified investors, ie usually financial institutions.

### **LR5: suspending, cancelling and restoring the listing**

Listing of securities can be suspended by the FSA either on its own initiative or acting on the request of the issuer of the securities. Reasons for suspension include the company in question going into receivership or administration, a failure to comply with the listing rules, or a failure to accurately assess the company's financial situation and inform the market accordingly. A listing can be cancelled either following a period of suspension or immediately. An example of a reason for an immediate cancellation is where the percentage of a company's shares in public hands falls below 25%. Cancellation can be at the issuer's request. In any event, there are requirements on notifying the members of the company.

Securities which have been suspended can be restored to the market upon request and at the discretion of the FSA. Securities which have had their listing cancelled can only be readmitted by reapplying for listing.

### **LR6: additional requirements for listing – equity securities**

These are the eligibility requirements for issuers who wish to have a primary listing of equity securities.

So, a new applicant must be able to produce audited accounts for the last three years. Those accounts must be for an accounting period which ended no more than six months before the date of the prospectus, or listing particulars, for the securities in question.

In order for investors to be able to make an informed decision about whether or not to buy the securities in question in the light of the outlook both for the business sector and more generally, the applicant must show that at least 75% of the company's income consistently comes from activities shown in the accounts. It must also be an independent business and control the majority of the assets involved in the business. These conditions may not be fulfilled where, for example:

- the business strategy concerns the development of future products or services;
- its financial performance is significantly different from other companies in the business sector in question;
- earnings records for the previous three years are inconsistent;
- the business has undergone significant change in the last three years; or
- there are significant levels of research and development expenditure, or of capital expenditure.

There are reduced requirements for mineral companies, or research and development companies, because of these issues.

The applicant must be able to show that it has sufficient working capital for its activities for the next twelve months. The FSA can dispense with this requirement.

If application is being made for listing a class of shares, then at least 25% of that class must be distributed to the public in the EEA, ie not being held back from the market. This is also a continuing obligation, see LR9.

All shares must be capable, under the company's articles, of being dealt with electronically to fit in with the LSE's dealing system, known as CREST.

### **LR7: Listing principles**

The purpose of the Listing Principles is to ensure that listed companies pay due regard to the fundamental role they play in maintaining market confidence and ensuring fair and orderly markets. They apply to every company with a primary listing of shares, in regard to its obligations under the Listing Rules, Disclosure Rules and the Transparency Rules.

The Listing Principles are dealt with in more detail in CLM Newsletter 2008, Issue 1.

### **LR8: Sponsors**

This concerns the requirement to appoint a sponsor, and the details of a sponsor's duties. Sponsors are firms which assist issuers by advising them on their obligations. Often, the sponsor will already be involved in a transaction as a financial adviser. The sponsor will oversee the due diligence process and provide effective vetting of forecasts and statements made by the issuers. The majority of sponsors are authorised firms under the Financial Services and Markets Act 2000, ranging from investment banks to small corporate finance houses, as well as some accounting and law firms. An issuer is required to appoint a sponsor on major transactions, such as an initial public offer, or a class one transaction where substantial assets are disposed of outside the ordinary course of business.

Companies which are already listed are only required to appoint a sponsor in regard to some of the major transactions under LR10 on significant transactions (though in reality such an adviser will probably already be in place before such transactions are undertaken).

A sponsor is required to act with due care and skill, to advise the directors of the company of their duties, to co-operate fully with the FSA, and to be independent of the company.

### **LR9: Continuing obligations**

After its securities have been admitted to the main market, the issuer still has obligations. Many of these are the requirements for initial listing in LR 6 which have been recast as continuing obligations. For example, if the proportion of a company's shares in public hands falls below 25% at any time after listing, the FSA will suspend or delist the shares, as they did with Simon Group PLC in August 2007.

The obligations in LR9 are in addition to those in the Disclosure and Transparency Rules. However, one of the provisions of LR9 is to extend requirements of the Disclosure and Transparency Rules to listed companies to which those rules would not otherwise apply.

Directors and managers are obliged to comply with the Model Code on share dealings. This imposes obligations not to use inside information on the company for personal gain, e.g. in the period leading up to the announcement of the annual trading results. The Model Code is attached to LR9 as an appendix.

Profit forecasts, or other unaudited financial information, must be restated in the next audited annual accounts, and any discrepancy in excess of 10% must be explained.

The remainder of LR9 concerns:

- removing pre-emption rights, as listed shares must be able to be traded freely;
- documents which need to be approved by the FSA;
- the procedure for offering securities to existing holders, ie open and rights issues;
- the maximum discount, 10%, which can be offered to existing holders who wish to take the offer of new securities;
- circulars to shareholders in relation to a refinancing or reconstruction of the company;
- notification to the FSA of any changes in the capital structure of the company;
- notification to the FSA of changes in the board of directors and the details of the directors;
- notification of shareholder resolutions other than those concerning ordinary business passed at the annual general meeting;
- notification of a change of name of the company, or a change of accounting date;
- a requirement to publish a preliminary statement of annual results, and an announcement of an intention to pay a dividend;
- information to be included in the annual financial report, including for example the interests of each director in the securities of the company; and
- the Model Code, which is designed to ensure that directors and managers do not use inside information to make personal profits.

### **LR10: significant transactions**

The purpose of this rule is to ensure that shareholders of companies with a primary listing on the LSE are informed of significant transactions undertaken by the company. They must have an opportunity to vote on the more major ones. The reason behind this is that such transactions could affect the company's profitability and therefore the value of their shares.

The transactions are categorised into classes, with the most major ones being in class 1. In essence, for a transaction to be classified as class 1 the value of the transaction must be equal to or greater than 25% of the value of the company, calculated by various test in the appendix to LR10. An indemnity

would be treated as being a class 1 transaction, if it is outside the usual course of business, and if it is equal to more than 25% of the company's profits. There are exceptions, so that indemnities given in sale and purchase agreements, for example, would not be regarded as being exceptional under LR10 and therefore would not trigger this requirement. If a transaction is Class 1, the company must send a circular to shareholders and obtain their consent to the transaction in a general meeting. These requirements can be dispensed with by the FSA if the company is entering the transaction to salvage a perilous financial position. The detail of the class tests is appended to LR10.

#### **LR11: related party transactions**

These concern the transactions of a listed company with its related parties, who would often be a substantial shareholder, director or their relations. Consent of the shareholders has to be obtained before the transaction, or the transaction must be conditional upon such consent. Exceptions include transactions of low value, and director's indemnities and loans, as allowed under the Companies Act 2006.

#### **LR12: Purchase of own equity securities and treasury shares**

This concerns a company dealing in its own securities. There is a general prohibition on a company buying back its own equity shares. However, there are exceptions including buy back of shares, subject to conditions, and redeeming redeemable shares. Purchases of less than 15% of its shares by a company are price controlled under LR12. Purchases of more than 15% have to be made by way of an offer to all shareholders. Announcements must be made to the market about such transactions. The requirements of the Companies Act 2006 in regard to share buy back have also to be complied with.

Purchases of equity securities other than equity shares have to be notified to the market when 10% of that class has been bought, redeemed or cancelled, and for each 5% bought thereafter.

Sales for cash or transfers of treasury shares are not permitted in the period leading up to announcement of annual results. There are exceptions for employee share schemes and for shares where the price is not likely to be affected by dealings in the relevant period.

#### **LR13: Contents of circulars**

These are the rules on circulars for companies with a primary listing of equity securities, including buyback circulars. The FSA needs to approve all circulars about a company buying its own securities, though there are some exceptions.

The contents of all circulars are laid down, for example that they must provide a clear and adequate explanation of the transaction giving due prominence to its essential characteristics, benefits and risks. A circular must state why the security holder is being asked to vote or, if no vote is required, why the circular is being sent. If voting or other action is required, the circular must contain all the information necessary to allow the security holders to make a properly informed decision.

Requirements for circulars for specific types of transaction are also included, for example in a class 1 circular a directors' declaration is required. In the case of a class 1 circular dealing with the acquisition or disposal of a holding in a target company, an accountants report must also be included.

#### **LR14: Secondary listing of overseas companies**

These are the rules for an overseas company applying for a secondary listing on the main market, i.e. the primary listing is on an overseas market. For example, 25% of the shares must already be in public hands within the EEA. The issuer will also need to comply with the requirements of LR3 on listing. There are continuing obligations on the overseas company which are similar to those on companies with a primary listing, under LR9.

#### **LR15: Closed-ended investment funds**

An investment trust is a closed-ended investment fund, as it has a fixed number of shares issued at any one time. It is a way for an investor to spread their risk. It can issue new shares, subject to shareholder approval. The share price fluctuates with supply and demand for the shares, and movements in the market itself. This is a new LR which has now replaced the old rule titled "investment entities". The rule governs funds listed on the market whose prime object is investing and managing its assets to spread investment risk or to manage a property, and which cannot issue new shares.

#### **LR16: Open-ended investment companies**

As with the closed-ended funds, the benefit is that an investor can purchase one type of share but is in effect spreading the risk across a wide range of shares. The requirements under LR16 are quite brief, not least as these companies simply invest primarily in other shares (though there are funds which invest in other areas such as commercial property). Open-ended investment companies, OEICs, do not have a fixed number of shares. Shares can be created and redeemed to meet investor demand, hence

the term "open-ended". The value of an OEIC is decided by the value of its assets, ie the shares which it owns in other companies. This LR has replaced the old rule on venture capital trusts.

**LR17: debt securities and the specialist securities**

**LR18: certificates representing certain securities**

**LR19: securitised derivatives**

These three rules concern the initial obligations for listing and the continuing obligations of issuers of specialised securities. They are broadly inline with general requirements dealt with above but the details are not dealt with here.

**Development of the Listing Rules**

Changes which have been brought in over the last 4 years include the following.

- The applicant company must have a track record of at least three years of **audited accounts**. The old rules required that the accounts also be produced to UK Generally Accepted Accounting Practice standards, GAAP.
- The Prospectus Rules (see below) require in any event that a statement of **working capital** be made in all prospectuses. The FSA has set out an alternative in the Listing Rules, which entails meeting requirements about solvency and the adequacy of the company's capital for a 12 month period.
- Listed companies must now announce information concerning the **disposal of equity shares** under an exemption allowed in a "lock up arrangement". Under such an arrangement, substantial shareholders and directors of the issuing company agree not they sell their shares for a given period.
- The new version of the **Model Code** requires that there should be an announcement of transactions in securities made by a broad group of people holding managerial functions in the company. The new Model Code also extends the controls on insider dealing. (The Model Code is broadly aimed at restricting managers of companies from dealing in the company's equities, especially at sensitive times.)

The most recent changes were made in September 2007, with a further set to be implemented in March 2008.

Key changes introduced in September 2007 included the following.

- LR15 has been renamed "**closed-ended investment funds**", and deals primarily with investment trusts and real estate investment trusts, REITs;
- LR16 has been renamed "**open-ended investment companies**", OEICs, and deals primarily with these investment vehicles, which are the successors to unit trusts. Such funds are already subject to other FSA controls;
- Non-material changes to investment policies will not require shareholder consent. Guidance on **materiality** is to be included in the Listing Rules; and
- **Property funds** and some overseas investment schemes are to be less tightly regulated.

The following changes are to be implemented in March 2008.

- Experience of the **investment manager**: the requirement that an applicant must have "sufficient and appropriate experience" has been removed, for listing under LR15.
- More than one **manager representative** on the board: there are limited changes to the provisions on independence of the board of directors. The concept is to make the regime more based on principles than on detailed regulation.
- **Feeder funds**: feeder funds will be allowed to list, with attached conditions under LR15, as part of the regime controlling closed-ended investment funds. Previously, the FSA view was that feeder funds did not spread investment risk sufficiently.
- **Quarterly portfolio disclosure** for investment trusts under LR15: this requirement will be removed. In effect, the FSA has decided to adopt the minimum level of disclosure. There will still be requirements to disclose some information under the Disclosure Rules and Transparency Rules (DTR 2, 4, and 5).
- Transactions with **related parties**: the stipulation that investment managers are related parties has been retained (LR11). There will be a new exemption to allow other clients of an investment manager to participate in investments by listed investment entities or transactions where that investment manager is acting.

## Prospectus Rules (PR)

United Kingdom Listing Authority prospectus rules

Reference code	Title
<a href="#">PR 1</a>	Preliminary
<a href="#">PR 2</a>	Drawing up the prospectus
<a href="#">PR 3</a>	Approval and publication of prospectus
<a href="#">PR 4</a>	Use of languages and third country issuers
<a href="#">PR 5</a>	Other provisions
<a href="#">PR App 1</a>	Relevant definitions
<a href="#">PR App 2</a>	Fees
<a href="#">PR App 3</a>	Schedules and Building Blocks and Table of Combinations of Schedules and Building Blocks
<a href="#">PR transchedule</a>	Transitional Provisions

The Prospectus Rules apply where a company is seeking to offer its securities to the public in the UK, or where a company is seeking to have its securities admitted to a regulated market in the UK. Thus, the rules apply to both the main market of the LSE and to AIM and PLUS.

## Disclosure Rules and Transparency Rules (DTR)

United Kingdom Listing Authority Disclosure and Transparency Rules

Reference code	Title
<a href="#">DTR 1</a>	Introduction
<a href="#">DTR 1A</a>	Introduction (Transparency rules)
<a href="#">DTR 2</a>	Disclosure and control of inside information by issuers
<a href="#">DTR 3</a>	Transactions by persons discharging managerial responsibilities and their connected persons
<a href="#">DTR 4</a>	Periodic Financial Reporting
<a href="#">DTR 5</a>	Vote Holder and Issuer Notification Rules
<a href="#">DTR 6</a>	Continuing obligations and access to information
<a href="#">DTR transchedule</a>	Transitional Provisions

The **Disclosure Rules** are part of the UK implementation of the Market Abuse Directive, MAD, and are intended to prevent insider dealing and market manipulation. There is also a Code of Market Conduct and a Model Code which need also to be considered in addition to the Disclosure Rules.

Under the **Transparency Rules**, there must be:

- annual financial reports, produced within 4 months of the financial year end;
- half-yearly financial reports, produced within 2 months of the relevant period;
- interim financial statements; and
- consolidated financial statements in the annual and half yearly financial reports.

The final implementing measures for the following aspects of the Transparency Directive have been passed at EU level in March 2007 and are due to be implemented in the UK by March 2008. These include the:

- disclosure to investors of the choice of home member state of the issuer;
- disclosure in management reports of major transactions by a related party;
- calendar of trading days, which will be that of the issuer's home member state;
- notification to the issuer by a shareholder of a change in major holdings;
- minimum standards for the dissemination of regulated information; and
- recognition of equivalent regulatory standards from non-EU countries.

The transitional exemption which allows some non-EU issuers not to produce their financial reports to **IFRS** standards has been extended to 2009. In contrast, all companies incorporated in a member state and admitted to trading on a regulated market have to prepare their accounts to IFRS standards, also known as International Accounting Standards (IAS).

EU Legislation on financial markets

EU legislation	Details	What it does
FSAP	Financial Services Action Plan	FSAP focuses on the freedom to provide financial services across the EU. MAD, PD, TD and MiFiD are some of the 42 measures of the FSAP.
CARD	Consolidated admission and reporting directive, 2001/34/EC	This was the basis for many of the former Listing Rules. Some parts are still in force. Now only deals with the core requirements for listing.
MAD	Market abuse directive. 2003/6/EC	Deals with insider dealing and market manipulation. Implemented by the Disclosure Rules.
MiFiD	Markets in financial instruments directive. 2004/39/EC	Introduced standards for admission to Regulated Markets in the EEA, which are distinct from "Official Listing" under the CARD.
PD	Prospectus Directive, 2003/71/EC. Recommendation 2004/34.	Specifies when a prospectus is required, the need for approval, and its contents
TD	Transparency directive, 2004/109/EC. Amends CARD. Amended by 2007/14/EC.	Establishes minimum requirements on periodic financial reporting and on the disclosure of major shareholdings for issuers.