

Primary Market Technical Note

Related party transactions – fair and reasonable confirmations

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 8, UKLR 11

UKLR 8.2.1R(3) requires a listed company to obtain a written confirmation from a sponsor that the terms of the proposed transaction or arrangement with the related party are fair and reasonable as far as the security holders of the listed company are concerned. If we request to see this confirmation, it should be provided to us as soon as possible, as required by UKLR 1.3.1R. We would only use this confirmation in the exercise of our statutory functions, and it is inappropriate and unnecessary to include language in a confirmation that seeks to limit our use of it. For the same reason, we believe it is unnecessary to include third-party disclaimers, as the

purpose for which the sponsor's confirmation is provided to the FCA is clear.

The confirmation provided by the sponsor under UKLR 8.2.1R(3) is an important shareholder safeguard, as shareholders of companies in the equity shares (commercial companies) category do not have the opportunity to vote on related party transactions, and shareholders of companies in the closed-ended investment funds category only have a vote on relevant related party transactions (UKLR 11.5.5R). We rely on the sponsor to undertake sufficient work to reach a considered opinion; there is no need to explain in the confirmation how that opinion was reached. On the contrary, we do not expect to see explanations of the basis of preparation, as it could be seen to limit the validity of the confirmation. Instead, a clean confirmation, tracking the wording used in UKLR 8.2.1R(3), should be given.

Please note we will still need to have discussions, where necessary, if a sponsor questions the correct classification under the class tests, before the transaction is entered into. Sponsors should approach us for guidance in such cases. We would also like to take the opportunity to highlight that a signed, final confirmation needs to be in place before the company enters into the transaction the subject of the confirmation. A listed company should refer to UKLR 8.2.5R and UKLR 11.5.8R to UKLR 11.5.11G, as applicable, if there is a material change to the terms of the related party transaction prior to completion.