

Chapter 18

Certificates representing
certain securities: Standard
listing



18.1 Application

18.1.1

R

This chapter applies to:

- (1) a *depository*; and
- (2) an *issuer* of the *securities* which are represented by certificates.



18.2 Requirements for listing

Issuer of securities is taken to be the issuer

- 18.2.1 **R** If an application is made for the *admission of certificates representing certain securities*, the *issuer* of the *securities* which the certificates represent is the *issuer* for the purpose of the *listing rules* and the application will be dealt with as if it were an application for the *admission* of the *securities*.

Certificates representing certain securities

- 18.2.2 **R** For *certificates representing certain securities* to be admitted to *listing* an *issuer* of the *securities* which the certificates represent must comply with ■ LR 18.2.3 R to ■ LR 18.2.7 G.

- 18.2.3 **R** An *issuer* must be:
- (1) duly incorporated or otherwise validly established according to the relevant laws of its place of incorporation or establishment; and
 - (2) operating in conformity with its *constitution*. [**Note:** Articles 42 and 52 CARD]

- 18.2.4 **R** For the certificates to be *listed*, the *securities* which the certificates represent must:
- (1) conform with the law of the *issuer's* place of incorporation;
 - (2) be duly authorised according to the requirements of the *issuer's constitution*; and
 - (3) have any necessary statutory or other consents. [**Note:** Articles 45 and 53 CARD]

- 18.2.5 **R**
- (1) For the certificates to be *listed*, the *securities* which the certificates represent must be freely transferable. [**Note:** Articles 46, 54 and 60 CARD]
 - (2) For the certificates to be *listed*, the *securities* which the certificates represent must be fully paid and free from all liens and from any restriction on the right of transfer (except any restriction imposed for failure to comply with a notice under section 793 of the Companies Act 2006 (Notice by company requiring information about interests in its shares)).

18.2.6 **G** The *FCA* may modify **■ LR 18.2.5 R** to allow partly paid *securities* if it is satisfied that their transferability is not restricted and investors have been provided with appropriate information to enable dealings in the *securities* to take place on an open and proper basis. [**Note:** Articles 46 and 54 *CARD*]

18.2.7 **G** The *FCA* may, in exceptional circumstances, modify or dispense with **■ LR 18.2.5 R** where the *issuer* has the power to disapprove the transfer of *securities* if the *FCA* is satisfied that this power would not disturb the market in those *securities*.

Certificates representing equity securities of an overseas company

18.2.8 **R**

- (1) If an application is made for the *admission* of a *class* of *certificates representing shares* of an *overseas company*, a sufficient number of *certificates* must, no later than the time of *admission*, be distributed to the public in one or more *EEA States*.
- (2) For the purposes of paragraph (1), account may also be taken of holders in one or more states that are not *EEA States*, if the *certificates* are listed in the state or states.
- (3) For the purposes of paragraph (1), a sufficient number of *certificates* will be taken to have been distributed to the public when 25% of the *certificates* for which application for *admission* has been made are in public hands.
- (4) For the purposes of paragraphs (1), (2) and (3), *certificates* are not held in public hands if they are:
 - (a) held, directly or indirectly by:
 - (i) a *director* of the *applicant* or of any of its *subsidiary undertakings*; or
 - (ii) a *person* connected with a *director* of the *applicant* or of any of its *subsidiary undertakings*; or
 - (iii) the trustees of any *employees' share scheme* or pension fund established for the benefit of any *directors* and *employees* of the *applicant* and its *subsidiary undertakings*; or
 - (iv) any *person* who under any agreement has a right to nominate a *person* to the board of *directors* of the *applicant*; or
 - (v) any *person* or *persons* in the same *group* or *persons* acting in concert who have an interest in 5% or more of the *certificates* of the relevant *class*.
 - (b) subject to a lock-up period of more than 180 calendar days.

18.2.9 **G** The *FCA* may modify **■ LR 18.2.8 R** to accept a percentage lower than 25% if it considers that the market will operate properly with a lower percentage in view of the large number of *certificates* of the same *class* and the extent of

their distribution to the public. For that purpose, the *FCA* may take into account certificates of the same *class* that are held (even though they are not listed) in states that are not *EEA States*. [**Note:** Article 48 *CARD*]

18.2.9A **G** When calculating the number of certificates for the purposes of **■ LR 18.2.8R (4)(a)(v)**, holdings of *investment managers* in the same *group* where investment decisions are made independently by the individual in control of the relevant fund and those decisions are unfettered by the *group* to which the *investment manager* belongs will be disregarded.

18.2.10 **R** [deleted]

Certificates representing securities of an investment entity.....

18.2.10A **R** Certificates representing *equity securities* of an *investment entity* (wherever incorporated or established) will be *admitted to listing* only if the *equity securities* they represent are already *listed* or are the subject of an application for *listing* at the same time.

Additional requirements for the certificates.....

18.2.11 **R** To be *listed*, the *certificates representing certain securities* must satisfy the requirements set out in **■ LR 2.2.2 R** to **■ LR 2.2.11 R**. For this purpose, in those *rules* references to *securities* are to be read as references to the *certificates representing certain securities* for which application for *listing* is made.

18.2.12 **R** To be *listed*, the *certificates representing certain securities* must not impose obligations on the *depository* that issues the certificates except to the extent necessary to protect the certificate-holders rights to, and the transmission of entitlements of, the *securities*.

Additional requirements for a depository.....

18.2.13 **R** [deleted]

18.2.14 **R** A *depository* that issues *certificates representing certain securities* must maintain adequate arrangements to safeguard certificate holders' rights to the *securities* to which the certificates relate, and to all rights relating to the *securities* and all money and benefits that it may receive in respect of them, subject only to payment of the remuneration and proper expenses of the *issuer* of the certificates.



18.3 Listing applications

- 18.3.1** **R** An *applicant for admission of certificates representing certain securities* must comply with ■ LR 3.2 and ■ LR 3.4.4 R to ■ LR 3.4.8 R subject to the following modifications.
- 18.3.1A** **R** An *applicant for admission of certificates representing certain securities* must submit a letter to the *FCA* setting out how it satisfies the requirements in ■ LR 2 and ■ LR 18.2 no later than when the first draft of a *prospectus* for the certificates is submitted, or if the *FCA* is not approving a *prospectus*, at a time agreed with the *FCA*.
- 18.3.2** **R** In addition to the documents referred to in ■ LR 3.4.6 R, an *applicant for admission of certificates representing certain securities* must keep a copy of the executed deposit agreement for six years after the *admission* of the relevant certificates.
- 18.3.3** **G** [deleted]



18.4 Continuing obligations

18.4.1 **R** An *issuer of debt securities* which the certificates represent must comply with the continuing obligations set out in **■ LR 17.3** (Requirements with continuing application) in addition to the requirements of this section.

18.4.2 **R** A *UK issuer of equity shares* which the certificates represent must comply with the continuing obligations set out in **■ LR 9** (Continuing obligations) in addition to the requirements of this section.

18.4.3 **R** An *overseas company* that is the *issuer* of the *equity shares* which the certificates represent must comply with:

- (1) the requirements of this section;
- (2) the continuing obligations set out in **■ LR 14.3** (Continuing obligations) (other than in **■ LR 14.3.2 R** and **■ LR 14.3.15 R**), **■ LR 18.2.8 R** and **■ LR 18.4.3A R**; and
- (3) the obligations in articles 17 and 18 of the *Market Abuse Regulation* as if it were an *issuer* for the purposes of those obligations and the *transparency rules*, subject to article 22 of the *Market Abuse Regulation*.

Annual accounts continuing obligations

18.4.3A **R**

- (1) An *issuer* within **■ LR 18.4.3 R** must publish its annual report and annual accounts as soon as possible after they have been approved.
- (2) An issuer within **■ LR 18.4.3 R** must approve and publish its annual report and accounts within six months of the end of the financial period to which they relate.
- (3) The annual report and accounts must:
 - (a) have been prepared in accordance with the *issuer's* national law and, in all material respects, with national accounting standards or *IAS*; and
 - (b) have been independently audited and reported on, in accordance with:
 - (i) the auditing standards applicable in an *EEA State*; or
 - (ii) an equivalent auditing standard.

18.4.3B **R** For the purposes of **LR 18.4.3R (2)**, a reference to complying with the obligations in **LR 14.3** is to be read as a reference to complying with those obligations in respect of the certificates.

Change of depositary

18.4.4 **R** Prior to any change of the *depositary of certificates representing certain securities*, the new *depositary* must satisfy the *FCA* that it meets the requirements of **LR 18.2.11 R** to **LR 18.2.14 R**.

Notification of change of depositary

- 18.4.5** **R**
- (1) An *issuer of securities* represented by *listed certificates representing certain securities* must notify a *RIS* of any change of *depositary*.
 - (2) The notification required by paragraph (1) must be made as soon as possible, and in any event by 7.30 a.m. on the *business day* following the change of *depositary*, and contain the following information:
 - (a) the name, registered office and principal administrative establishment if different from the registered office of the *depositary*;
 - (b) the date of incorporation and length of life of the *depositary*, except where indefinite;
 - (c) the legislation under which the *depositary* operates and the legal form which it has adopted under the legislation; and
 - (d) any changes to the information regarding the *certificates representing certain securities*.

Documents of title

18.4.6 **R** An *issuer* must comply with the requirements in **LR 9.5.15 R** (Temporary documents of title) and **LR 9.5.16 R** (Definitive documents of title) so far as relevant to *certificates representing equity securities*.

Compliance with Transparency Rules

18.4.7 **G** An *issuer*, whose *securities* are admitted to trading on a *regulated market*, should consider its obligations under **DTR 4** (Periodic financial reporting), **DTR 5** (Vote holder and issuer notification rules) and **DTR 6** (Access to information).

18.4.8 **R** [18.4.8 to follow]

18.4.9 **R** An *issuer* that is not already required to comply with the transparency rules must comply with **DTR 6.3** as if it were an *issuer* for the purposes of the transparency rules.