

Chapter 21

Sovereign Controlled Commercial Companies: Premium listing

21.8 Continuing obligations: Certificates representing shares

Compliance with LR 9 (Continuing obligations)

- 21.8.1** **R** A *listed company* must comply with ■ LR 9 (Continuing obligations) except:
- (1) ■ LR 9.2.1R to ■ LR 9.2.2R;
 - (2) ■ LR 9.2.5G to ■ LR 9.2.6DR;
 - (3) ■ LR 9.2.15R to ■ LR 9.2.15AG;
 - (4) ■ LR 9.2.21R to ■ LR 9.2.22FG; and
 - (5) ■ LR 9.2.26G; and
- subject to the modifications and additional requirements set out in ■ LR 21.8.2R to ■ LR 21.8.12R.
- 21.8.2** **R** For the purposes of ■ LR 21.8.1R, references to the *listed company* or the *issuer* must be read as references to the *issuer* of the *equity shares* which the certificates represent in ■ LR 9.
- 21.8.2A** **R** For the purposes of ■ LR 21.8.1R, in ■ LR 9.2.23R the reference to ■ LR 9.2.21R should be read as a reference to ■ LR 21.8.22R.
- 21.8.2B** **R** For the purposes of ■ LR 21.8.1R, references to *listed equity shares* in ■ LR 9.2.6ER to ■ LR 9.2.6HR must be read as references to:
- (1) *listed certificates representing shares*; and
 - (2) the *equity shares* which the *listed certificates* represent.
- 21.8.3** **G** For the purposes of ■ LR 21.8.1R, in ■ LR 9.2.2AAG factors that may indicate that a *listed company* does not satisfy ■ LR 9.2.2AR also include situations where a *listed company* has granted or may be required to grant security over its business in connection with the funding of a *sovereign controlling shareholder*.

- 21.8.4** **R** For the purposes of ■ LR 21.8.1R, references to *controlling shareholder* must be read as excluding a *sovereign controlling shareholder* in, or for the purposes of, the following:
- (1) ■ LR 9.2.2ABR and ■ LR 9.2.2ACG;
 - (2) ■ LR 9.2.2ADR(1);
 - (3) ■ LR 9.2.2BR;
 - (4) ■ LR 9.2.2CR;
 - (5) ■ LR 9.2.2GR and ■ LR 9.2.2HG;
 - (6) ■ LR 9.8.4 R(11); and
 - (7) ■ LR 9.8.4R(14).
- 21.8.5** **G** For the purposes of obtaining the shareholder approvals required by:
- LR 9.2.2ER;
 - LR 9.2.2FR;
 - LR 9.4.1R(2);
 - LR 9.4.4R(2); and
 - LR 9.5.10R(3)(a),
- a *listed company* is required under ■ LR 21.8.13R to ensure that the holders of its *certificates representing shares* are able to exercise the votes attaching to the *equity shares* which the certificates represent on any shareholder vote.
- 21.8.6** **G** For the purposes of ■ LR 9.3.11R the *listed company* is required under ■ LR 21.8.13R to ensure that, where the offer is made to holders of the *class* of *equity shares* which the certificates represent, the holders of its *certificates representing shares* have an equal opportunity to participate in the offer.
- 21.8.7** **R** For the purposes of ■ LR 21.8.1R, ■ LR 9.5 is modified as follows:
- (1) in ■ LR 9.5.1R(4) the *equity securities* which are the subject of the *rights issue* must be of the same *class* as the *equity shares* which are represented by the *listed certificates representing shares*;
 - (2) ■ LR 9.5.3G does not apply;
 - (3) in ■ LR 9.5.10R(1):
 - (a) the reference to a *class* already *listed* must be read as a reference to a *class* of *equity shares* which the *listed* certificates represent; and
 - (b) for the purposes of ■ LR 9.5.10R, if the *equity shares* are not listed, then the middle market price of those *equity shares* shall be

		determined by reference to the middle market price of the <i>listed certificates representing shares</i> ; and
		(4) a <i>listed company</i> must comply with the requirements in ■ LR 9.5.15R and ■ LR 9.5.16R so far as relevant to <i>certificates representing shares</i> .
21.8.8	G	For the purposes of ■ LR 21.8.1R, in ■ LR 9.5 the <i>listed company</i> is required under ■ LR 21.8.13R to ensure that in relation to: <ul style="list-style-type: none"> (1) any <i>rights issue</i>; or (2) any <i>open offer</i> where the offer relates to the <i>class of equity shares</i> which the certificates represent, the holders of its <i>certificates representing shares</i> have an equal opportunity to participate in the <i>rights issue</i> or <i>open offer</i> .
21.8.9	R	In addition to complying with ■ LR 9.6.2R, a <i>listed company</i> must also forward to the FCA for publication a copy of all resolutions passed by the holders of the <i>listed certificates representing shares</i> , by uploading it to the <i>national storage mechanism</i> . It must also comply with the notification requirements set out in ■ LR 9.6.3R in relation to such resolutions.
21.8.10	R	For the purposes of ■ LR 21.8.1R: <ul style="list-style-type: none"> (1) in ■ LR 9.6.4R(3) the reference to <i>listed shares</i> must be read as a reference to <i>equity shares</i> of the <i>class</i> which the certificates represent; and (2) in ■ LR 9.8.4CR the reference to ■ LR 9.8.4R must be read as a reference to ■ LR 9.8.4R as modified by ■ LR 21.8.4R.
21.8.11	R	In addition to complying with ■ LR 9.6.18R, a <i>listed company</i> must also notify a <i>RIS</i> as soon as possible after a meeting of the holders of the <i>listed certificates representing shares</i> of all resolutions passed by the holders.
21.8.12	R	In addition to complying with ■ LR 9.7A.2R, a <i>listed company</i> must comply with the notification requirements in ■ LR 9.7A.2R in respect of the <i>equity shares</i> which the certificates represent.
Additional requirements: exercise of rights attaching to the equity shares which the certificates represent		
21.8.13	R	<ul style="list-style-type: none"> (1) The rights attaching to the <i>equity shares</i> which the certificates represent must at all times be capable of being exercised by the holders of the certificates as if they were the holders of the relevant <i>equity shares</i>. (2) A <i>listed company</i> must at all times have in place arrangements which enable the holders of the certificates to exercise the rights attaching to the <i>equity shares</i> which the certificates represent as if they were the holders of the relevant <i>equity shares</i>.

- (3) Every *circular* which is sent by a *listed company* to the holders of the *equity shares* which the certificates represent must be sent to the holders of its *certificates representing shares* at the same time as the *circular* is despatched to the holders of those *equity shares*.

Additional requirements: compliance with the disclosure requirements, transparency rules and corporate governance rules

- 21.8.14** **G** A *listed company*, whose *certificates representing shares* are admitted to trading on a *regulated market*, should consider its obligations under the *disclosure requirements*.
- 21.8.15** **R** A *listed company* that is not already required to comply with the obligations referred to under article 17 of the *Market Abuse Regulation* must comply with those obligations as if it were an *issuer* for the purposes of the *disclosure requirements* and *transparency rules* subject to article 22 of the *Market Abuse Regulation*.
- 21.8.16** **G** A *listed company*, whose *certificates representing shares* 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), **■ DTR 6** (Continuing obligations and access to information) and **■ DTR 7** (Corporate governance).
- 21.8.17** **R** A *listed company* that is not already required to comply with **■ DTR 4**, **■ DTR 5** and **■ DTR 6** must comply with **■ DTR 4**, **■ DTR 5** and **■ DTR 6** as if it were an *issuer* of *shares* for the purposes of the *transparency rules*.
- 21.8.17A** **R** A *listed company* that is not already required to comply with **■ DTR 7.3** (Related party transactions) must comply with **■ DTR 7.3** as if it were an *issuer* to which **■ DTR 7.3** applies, subject to the modifications set out in **■ LR 21.8.17BR**.
- 21.8.17B** **R** For the purposes of **■ LR 21.8.17AR**, **■ DTR 7.3** is modified as follows:
- (1) **■ DTR 7.3.2R** must be read as if the words “has the meaning in *UK-adopted IFRS*” are replaced by:
- “has the meaning:
- (a) in *UK-adopted IFRS*; or
- (b) where the *listed company* prepares annual consolidated financial statements in accordance with accounting standards which have been determined to be equivalent to *UK-adopted IFRS* and which are set out in the *TD Equivalence Decision*,
- (i) in *UK-adopted IFRS*, or
- (ii) in the equivalent accounting standards in accordance with which its annual consolidated financial statements are prepared;
- at the choice of the *listed company*.”

- (2) ■ DTR 7.3.8R(2) and ■ (3) do not apply;
- (3) ■ DTR 7.3.9R must be read as follows:
 - (a) as if the words “after obtaining board approval” are replaced by “after publishing an announcement in accordance with ■ DTR 7.3.8R(1)”; and
 - (b) the reference to ■ DTR 7.3.8R must be read as a reference to ■ DTR 7.3.8R as modified by ■ LR 21.8.17BR(2); and
- (4) in ■ DTR 7.3.13R the references to ■ DTR 7.3.8R must be read as references to ■ DTR 7.3.8R as modified by ■ LR 21.8.17BR(2).

Additional requirements: certificates in public hands and admission to trading

- 21.8.18** R A *listed company* must comply with ■ LR 21.6.18R at all times.
- 21.8.19** G [deleted]
- 21.8.20** R A *listed company* must comply with ■ LR 21.6.23R at all times.
- 21.8.21** R A *listed company* must inform the *FCA* in writing as soon as possible if it has:
 - (1) requested a *RIE* to admit or re-admit any of its *listed certificates representing shares* to trading; or
 - (2) requested a *RIE* to cancel or suspend trading of any of its *listed certificates representing shares*; or
 - (3) been informed by a *RIE* that trading of any of its *listed certificates representing shares* will be cancelled or suspended.

Additional requirements: voting on matters relevant to premium listing

- 21.8.22** R
 - (1) Where pursuant to ■ LR 21.8, ■ LR 21.9 or ■ LR 21.10 the provisions of ■ LR 9.4, ■ LR 9.5, ■ LR 10, ■ LR 11 or ■ LR 12 require a shareholder vote to be taken, that vote must be decided by a resolution of the holders of the *class of equity shares* which the certificates that have been admitted to *premium listing* represent.
 - (2) Where pursuant to ■ LR 21.8 the provisions of ■ LR 9.2.2ER require that the resolution must in addition be approved by the *independent shareholders*, only:
 - (a) *independent shareholders* who hold *equity shares* of the *class* which the certificates that have been admitted to *premium listing* represent; and
 - (b) holders of certificates admitted to *premium listing* who would be *independent shareholders* within (a) if they held the *equity shares* which the certificates represent; can vote.

- 21.8.23** G
- (3) Where the provisions of ■ LR 5.2 or ■ LR 5.4A require a vote of the holders of the certificates to be taken, that vote must be decided by a resolution of the holders of the *listed company's certificates representing shares* that have been admitted to *premium listing*.
 - (4) Where the provisions of ■ LR 5.2.5R(2A) or ■ LR 5.4A.4R(3)(e)(ii) require that the resolution must in addition be approved by holders of certificates other than the *controlling shareholder*, only holders of the *listed company's certificates representing shares* that have been admitted to *premium listing* can vote.
- 21.8.24** G
- Where the provisions of ■ LR 5.2.5R(2A) or ■ LR 5.4A.4R(3)(e)(ii) require that the resolution must in addition be approved by holders of certificates other than the *controlling shareholder*, the *controlling shareholder* will include a *sovereign controlling shareholder*.
- 21.8.25** G
- The FCA may modify the operation of ■ LR 21.8.22R in exceptional circumstances, for example to accommodate the operation of:
- (1) special share arrangements designed to protect the national interest;
 - (2) dual-listed company voting arrangements; and
 - (3) voting rights attaching to *preference shares* or similar *securities* that are in arrears.
- 21.8.26** G
- Where a *listed company* is unable to comply with a continuing obligation set out in:
- (1) ■ LR 9.2 as modified by ■ LR 21.8; or
 - (2) ■ LR 21.8.13R to ■ LR 21.8.25G,
- it should consider seeking a cancellation of *listing* or applying for a transfer of its *listing* category. In particular, the *listed company* should note ■ LR 5.2.2G(2) and ■ LR 5.4A.16G.

Additional requirements: working capital statement

- 21.8.27** **R** In relation to an application for *admission of certificates representing shares* of an *applicant* that has *certificates representing shares* already listed:
- (1) an *applicant* must satisfy the *FCA* that it and its *subsidiary undertakings* (if any) have sufficient working capital available for the *group's* requirements for at least the next 12 months from the date of publication of the *prospectus* or *listing particulars* for the *certificates representing shares* that are being admitted; and
 - (2) if the *prospectus* or *listing particulars* for the *certificates representing shares* that are being admitted does not include a working capital statement which demonstrates that the requirement under paragraph (1) is satisfied, then:
 - (a) an *applicant* must prepare and publish a working capital statement which demonstrates that the requirement under paragraph (1) is satisfied;
 - (b) the working capital statement required by paragraph (a) must be prepared in accordance with item 3.1 of Annex 11 of the *PR Regulation*; and
 - (c) the working capital statement required by paragraph (a) must be published at the same time as the *prospectus* or *listing particulars*, as applicable.

- 21.8.28** **R** A working capital statement published for the purposes of **■ LR 21.8.27R** must be published by means of a *RIS*.

Additional requirements: sovereign controlling shareholder

- 21.8.29** **R** A *listed company* must at all times have a *sovereign controlling shareholder*.

- 21.8.30** **R** To comply with **■ LR 21.8.29R**, a State which is a *sovereign controlling shareholder* must be either:

- (1) recognised by the government of the *UK* as a *State*; or
- (2) the *UK*.

- 21.8.31** **R** A *listed company* must notify the *FCA* without delay if it no longer complies with the continuing obligation set out in **■ LR 21.8.29R**.

- 21.8.32** **G** Where a *listed company* is unable to comply with the continuing obligation set out in **■ LR 21.8.29R**, it should consider seeking a cancellation of *listing* or applying for a transfer of its *listing* category. In particular, the *listed company* should note **■ LR 5.2.2G(2)** and **■ LR 5.4A.17G**.

Change of depositary

- 21.8.33** **R** Prior to any change of the *depositary* of *certificates representing shares*, the new *depositary* must satisfy the *FCA* that it meets the requirements of **■ LR 21.6.22R** to **■ LR 21.6.26G**.

Notification of change of depositary

21.8.34

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- (1) An *issuer of equity shares* represented by *listed certificates representing shares* 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 must 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 shares*.

Sponsors

21.8.35

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A *listed company* should consider the requirements in ■ LR 8.2 (When a sponsor must be appointed or its guidance obtained) and ■ LR 8.5 (Responsibilities of listed companies), subject to the modification to ■ LR 8.2.3R in ■ LR 21.10.5R.