

Chapter 6

Additional requirements for
premium listing (commercial
company)

6.5 Controlling shareholders

- 6.5.1** **R** An *applicant* with a *controlling shareholder* must demonstrate that, despite having a *controlling shareholder*, the *applicant* is able to carry on an independent business as its main activity.
- 6.5.2** **G** ■ LR 6.5.1R is intended to ensure that the protections afforded to *holders of equity shares* by the *premium listing* requirements are meaningful.
- 6.5.3** **G** Factors that may indicate that an *applicant* does not satisfy the requirement in ■ LR 6.5.1R (even where the agreement in ■ LR 6.5.4R is in place) include:
- (1) an *applicant* has granted or may be required to grant security over its business in connection with the funding of a *controlling shareholder* or a member of a *controlling shareholder's group*; or
 - (2) a *controlling shareholder* (or any *associate* thereof) appears to be able to influence the operations of the *applicant* outside its normal governance structures or via material shareholdings in one or more significant *subsidiary undertakings*; or
 - (3) a *controlling shareholder* appears to be able to exercise improper influence over the *applicant*; or
 - (4) an *applicant* cannot demonstrate that it has access to financing other than from a *controlling shareholder* (or an *associate* thereof).
- 6.5.4** **R** An *applicant* with a *controlling shareholder* upon *admission* must have in place a written and legally binding agreement with its *controlling shareholder* which is intended to ensure that the *controlling shareholder* complies with undertakings that:
- (1) transactions and arrangements with the *controlling shareholder* (and/or any of its *associates*) will be conducted at arm's length and on normal commercial terms;
 - (2) neither the *controlling shareholder* nor any of its *associates* will take any action that would have the effect of preventing the *applicant* from complying with its obligations under the *listing rules*; and
 - (3) neither the *controlling shareholder* nor any of its *associates* will propose or procure the proposal of a shareholder resolution which is intended or appears to be intended to circumvent the proper application of the *listing rules*.

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An *applicant* with more than one *controlling shareholder* is not required to enter into a separate agreement with each *controlling shareholder* if:

- (1) the *applicant* reasonably considers, in light of its understanding of the relationship between the relevant *controlling shareholders*, that a *controlling shareholder* can procure the compliance of another *controlling shareholder* and that *controlling shareholder's associates* with the undertakings in ■ LR 6.5.4R; and
- (2) the agreement, which contains the undertakings in ■ LR 6.5.4R, entered into with the relevant *controlling shareholder* also contains:
 - (a) a provision in which the *controlling shareholder* agrees to procure the compliance of a non-signing *controlling shareholder* and its *associates* with the undertakings in ■ LR 6.5.4R; and
 - (b) the name of such non-signing *controlling shareholder*.