

Chapter 9

Continuing obligations

9.2 Requirements with continuing application

Admission to trading

- 9.2.1 **R** A *listed company* must comply with ■ LR 2.2.3 R at all times.
- 9.2.2 **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 equity shares* to trading; or
 - (2) requested a RIE to cancel or suspend trading of any of its *listed equity shares*; or
 - (3) been informed by a RIE that trading of any of its *listed equity shares* will be cancelled or suspended.

Independent business

- 9.2.2A **R** (1) A *listed company* must carry on an independent business as its main activity at all times.
- (2) [deleted]
- 9.2.2AA **G** ■ LR 6.4.3G provides *guidance* on factors that may indicate that a *listed company* is not carrying on an independent business.

Controlling shareholders

- 9.2.2AB **R** A *listed company* with a *controlling shareholder* must demonstrate that, despite having a *controlling shareholder*, the *listed company* is still able to carry on an independent business as its main activity at all times.
- 9.2.2AC **G** ■ LR 6.5.3G provides *guidance* on factors that may indicate that a *listed company* with a *controlling shareholder* is not carrying on an independent business.
- 9.2.2AD **R** Where a *listed company* has a *controlling shareholder*, it must have in place at all times:

- (1) a written and legally binding agreement which is intended to ensure that the *controlling shareholder* complies with the undertakings in ■ LR 6.5.4R; and
- (2) a constitution that allows the election and re-election of *independent directors* to be conducted in accordance with ■ LR 9.2.2ER and ■ LR 9.2.2FR (election provisions).

9.2.2B

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In order to comply with ■ LR 9.2.2ADR(1), where a *listed company* will have more than one *controlling shareholder*, the *listed company* will not be required to enter into a separate agreement with each *controlling shareholder* if:

- (1) the *listed company* 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 names of any such non-signing *controlling shareholder*.

9.2.2C

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Where as a result of changes in ownership or control of a *listed company*, a *person* becomes a *controlling shareholder* of the *listed company*, the *listed company* will be allowed:

- (1) a period of not more than 6 months from the event that resulted in that *person* becoming a *controlling shareholder* to comply with ■ LR 9.2.2ADR(1); and
- (2) in the case of a *listed company* which did not previously have a *controlling shareholder*, until the date of the next annual general meeting of the *listed company*, other than an annual general meeting for which notice:
 - (a) has already been given; or
 - (b) is given within a period of 3 months from the event that resulted in that *person* becoming a *controlling shareholder*;
 to comply with ■ LR 9.2.2ADR(2).

9.2.2D

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In complying with ■ LR 9.2.2ADR(2), a *listed company* may allow an existing *independent director* who is being proposed for re-election (including any such *director* who was appointed by the board of the *listed company* until the next annual general meeting) to remain in office until any resolution required by ■ LR 9.2.2FR has been voted on.

9.2.2E

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Where ■ LR 9.2.2ADR applies, the election or re-election of any *independent director* by shareholders must be approved by:

- (1) the shareholders of the *listed company*; and
- (2) the *independent shareholders* of the *listed company*.

9.2.2F **R** Where **■ LR 9.2.2E R** applies, if the election or re-election of an *independent director* is not approved by both the shareholders and the *independent shareholders* of the *listed company*, but the *listed company* wishes to propose that *person* for election or re-election as an *independent director*, the *listed company* must propose a further resolution to elect or re-elect the proposed *independent director* which:

- (1) must not be voted on within a period of 90 days from the date of the original vote;
- (2) must be voted on within a period of 30 days from the end of the period set out in (1); and
- (3) must be approved by the shareholders of the *listed company*.

9.2.2G **R** A *listed company* must comply with the undertakings in **■ LR 6.5.4R** or **■ LR 9.2.2ADR(1)** at all times.

9.2.2H **G** In addition to the annual confirmation required to be included in a *listed company's* annual financial report under **■ LR 9.8.4R (14)**, the *FCA* may request information from a *listed company* under **■ LR 1.3.1 R (3)** to confirm or verify that an undertaking in **■ LR 6.5.4R** or **■ LR 9.2.2ADR(1)** or a procurement obligation (as set out in **■ LR 6.5.5R(2)(a)** or **■ LR 9.2.2BR (2)(a)**) contained in an agreement entered into under **■ LR 6.5.4R** or **■ LR 9.2.2ADR(1)** is being or has been complied with.

Control of business

9.2.2I **R** A *listed company* must exercise operational control over the business it carries on as its main activity at all times.

9.2.2J **G** **■ LR 6.6.3G** provides *guidance* on factors that may indicate that a *listed company* is not exercising operational control over the business it carries on as its main activity.

- 9.2.2K** **R**
- (1) This *rule* applies where a *mineral company* does not hold controlling interests in a majority (by value) of the properties, fields, mines or other assets in which it has invested.
 - (2) The *mineral company* is not required to comply with **■ LR 9.2.2IR** where it can demonstrate the factors set out in **■ LR 6.10.3R(2)**.

9.2.3 **R** [deleted]

9.2.4 **R** [deleted]

Compliance with the disclosure requirements, transparency rules and corporate governance rules

- 9.2.5** **G** A listed company, whose equity shares are admitted to trading on a regulated market, should consider the obligations under the disclosure requirements.
- 9.2.6** **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*.
- 9.2.6A** **G** A listed company, whose equity 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 (Access to information) and ■ DTR 7 (Corporate governance).
- 9.2.6B** **R** A listed company that is not already required to comply with the transparency rules must comply with ■ DTR 4, ■ DTR 5 and ■ DTR 6 as if it were an issuer for the purposes of the transparency rules.
- 9.2.6C** **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 9.2.6DR.
- 9.2.6D** **R** For the purposes of ■ LR 9.2.6CR, ■ 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 9.2.6DR(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 9.2.6DR(2).

Disclosure of rights attached to equity shares

9.2.6E

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Unless exempted in ■ LR 9.2.6HR, a *listed company* must:

- (1) forward to the *FCA* for publication a copy of one or more of the following:
 - (a) the approved *prospectus* or *listing particulars* for its *listed equity shares*;
 - (b) the relevant agreement or document setting out the terms and conditions on which its *listed equity shares* were issued; or
 - (c) a document describing:
 - (i) the rights attached to its *listed equity shares*;
 - (ii) limitations on such rights; and
 - (iii) the procedure for the exercise of such rights, produced in accordance with the relevant Annex of the *Prospectus Regulation* that would have applied had the *listed company* been required to produce a *prospectus* for those *listed equity shares*; and
- (2) if the information in relation to the rights attached to its *listed equity shares* set out in the document previously forwarded in accordance with (1) is no longer accurate, forward to the *FCA* for publication a copy of either of the following:
 - (a) a new document in accordance with (1); or
 - (b) a document describing or setting out the changes which have occurred in relation to the rights attached to the *listed company's listed equity shares*.

9.2.6F

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The documents in ■ LR 9.2.6ER must be forwarded to the *FCA* for publication by uploading them to the system identified by the *FCA* on its website as the national storage mechanism.

9.2.6G

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The purpose of ■ LR 9.2.6ER is to require *listed companies* to maintain publicly available information in relation to the rights attached to their *listed equity shares* so that investors can access such information.

9.2.6H

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A *listed company* is exempt from ■ LR 9.2.6ER where:

- (1) it has previously forwarded to the *FCA* for publication, or otherwise filed with the *FCA*, a document specified in ■ LR 9.2.6ER(1);
- (2) if the information in relation to the rights attached to its *listed equity shares* set out in the document previously forwarded or filed in accordance with (1) is no longer accurate, it has forwarded to the *FCA*

for publication, or otherwise filed with the *FCA*, a copy of either of the following:

- (a) one of the documents specified in ■ LR 9.2.6ER(1); or
- (b) a document describing or setting out the changes which have occurred in relation to the rights attached to the *listed company's listed equity shares*, and

(3) the documents in (1) and (2) have been forwarded to the *FCA* for publication, or otherwise filed with the *FCA*, by:

- (a) forwarding them for publication on the *document viewing facility*; or
- (b) uploading them to the system identified by the *FCA* on its website as the national storage mechanism.

9.2.7 **R** (1) (2) [deleted]

9.2.8 **R** [deleted]

9.2.8A **G** [deleted]

9.2.9 **G** [deleted]

9.2.10 **R** [deleted]

Contact details

9.2.11 **R** A *listed company* must ensure that the *FCA* is provided with up to date contact details of at least one appropriate person nominated by it to act as the first point of contact with the *FCA* in relation to the *company's* compliance with the *listing rules* and the *disclosure requirements* and *transparency rules*.

9.2.12 **G** The contact person referred to in ■ LR 9.2.11 R will be expected to be:

- (1) knowledgeable about the *listed company* and the *listing rules* applicable to it;
- (2) capable of ensuring that appropriate action is taken on a timely basis; and
- (3) contactable on *business days* between the hours of 7 a.m. to 7 p.m.

Sponsors

9.2.13 **G** A *listed company* should consider its notification obligations under ■ LR 8.5.

9.2.13A **R** In relation to the provision of a *sponsor service*, a *company with a premium listing* must cooperate with its *sponsor* by providing the *sponsor* with all information reasonably requested by the *sponsor* for the purpose of carrying out the *sponsor service* in accordance with **LR 8**.

9.2.14 **R** [deleted]

Shares in public hands

9.2.15 **R** A *listed company* must comply with **LR 6.14.1R** to **LR 6.14.3R** at all times.

9.2.15A **G** Where the *FCA* has modified **LR 6.14.1R** to accept a percentage lower than 25% on the basis that the market will operate properly with a lower percentage, but the *FCA* considers that in practice the market for the *shares* is not operating properly, the *FCA* may revoke the modification in accordance with **LR 1.2.1 R** (4).

9.2.16 **R**

9.2.17 **G**

Publication of unaudited financial information

9.2.18 **R**

- (1) This *rule* applies to a *listed company* that has published:
 - (a) any unaudited financial information in a *class 1 circular* or a *prospectus*; or
 - (b) any *profit forecast* or *profit estimate*.
- (2) The first time a *listed company* publishes financial information as required by **DTR 4.1** after the publication of the unaudited financial information, *profit forecast* or *profit estimate*, it must:
 - (a) reproduce that financial information, *profit forecast* or *profit estimate* in its next annual report and accounts;
 - (b) produce and disclose in the annual report and accounts the actual figures for the same period covered by the information reproduced under paragraph (2)(a); and
 - (c) provide an explanation of the difference, if there is a difference of 10% or more between the figures required by paragraph (2)(b) and those reproduced under paragraph (2)(a).

9.2.19 **G** **LR 9.2.18 R** does not apply to:

- (1) pro forma financial information prepared in accordance with Annex 1 and Annex 2 of the *PR Regulation*; or
- (2) any preliminary statements of annual results or half-yearly or quarterly reports that are reproduced with the unaudited financial information.

Externally managed companies

- 9.2.20 **R** An *issuer* must at all times ensure that the discretion of its board to make strategic decisions on behalf of the *company* has not been limited or transferred to a *person* outside the *issuer's group*, and that the board has the capability to act on key strategic matters in the absence of a recommendation from a *person* outside the *issuer's group*.

Voting on matters relevant to premium listing

- 9.2.21 **R** Where the provisions of ■ LR 5.2, ■ LR 5.4A, ■ LR 9.4, ■ LR 9.5, ■ LR 10, ■ LR 11, ■ LR 12 or ■ LR 15 require a shareholder vote to be taken, that vote must be decided by a resolution of the holders of the *listed company's shares* that have been *admitted to premium listing*. Where the provisions of ■ LR 5.2.5 R (2), ■ LR 5.4A.4 R (3)(b)(ii), ■ LR 5.4A.4R(3)(c)(ii) or ■ LR 9.2.2E R require that the resolution must in addition be approved by the *independent shareholders*, only *independent shareholders* who hold the *listed company's shares* that have been *admitted to premium listing* can vote.

- 9.2.22 **G** The *FCA* may modify the operation of ■ LR 9.2.21 R 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.

Notifications to the FCA: notifications regarding continuing obligations

- 9.2.23 **R** A *listed company* must notify the *FCA* without delay if it does not comply with any continuing obligation set out in ■ LR 9.2.2A R, ■ LR 9.2.2ABR, ■ LR 9.2.2ADR, ■ LR 9.2.2E R, ■ LR 9.2.2F R, ■ LR 9.2.15 R or ■ LR 9.2.21 R.

Notifications to the FCA: notifications regarding compliance with independence provisions

- 9.2.24 **R** A *listed company* must notify the *FCA* without delay if:
- (1) it no longer complies with ■ LR 9.2.2G R;
 - (2) it becomes aware that an undertaking in ■ LR 6.5.4R or ■ LR 9.2.2ADR(1) has not been complied with by the *controlling shareholder* or any of its *associates*; or
 - (3) it becomes aware that a procurement obligation (as set out in ■ LR 6.5.5R(2)(a) or ■ LR 9.2.2BR (2)(a)) contained in an agreement entered into under ■ LR 6.5.4R or ■ LR 9.2.2ADR(1) has not been complied with by a *controlling shareholder*.

Notifications to the FCA: notifications regarding LR 9.8.4AR

- 9.2.25 **R** A *listed company* must notify the FCA without delay if its annual financial report contains a statement of the kind specified under ■ LR 9.8.4A R.

Inability to comply with continuing obligations

- 9.2.26 **G** Where a *listed company* is unable to comply with a continuing obligation set out in ■ LR 9.2, 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 5.2.2 G (2) and ■ LR 5.4A.16 G.