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Listing Investment Companies on the London Stock Exchange: Latest Developments

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Following a series of consultation papers issued in connection with the Investment Entities Listing Review, the Financial Services Authority (the "FSA") published a policy statement (PS07/20) on 7 December 2007 summarising the feedback received on proposals in the consultation paper published on 29 June 2007. The aim of the review has been to simplify and modernise the UK listing regime for investment companies (in particular, those resident overseas) to ensure an appropriate level of regulation, while retaining and reinforcing all the features which contribute to the flexibility and transparency of the London capital markets.

The Story So Far

In March 2006, the FSA published a consultation paper seeking views on proposed changes to the Listing Rules for investment entities. It was recognised that the stringent formalities that must be complied with to allow listing of investment companies on the LSE were much more restrictive than those of competitor markets such as Euronext, and in order to encourage investment entities to come to the UK market, it would be beneficial to relax these conditions. To that end, the FSA concluded that overseas investment companies should be permitted to list on the LSE under Chapter 14 of the Listing Rules (previously the Chapter 15 standards were the minimum standards that any listed entity should be subject to). This meant that an overseas investment entity was then able to have a 'secondary' Chapter 14 listing on the LSE without the need for a 'primary' listing elsewhere, while avoiding the need to comply with the "super-equivalent" listing standards of Chapter 15. This was confirmed by the FSA in its further consultation paper issued in December 2006.

The significance of the FSA's statement was that a listing under Chapter 14 offered overseas investment entities a far less prescriptive and broadly less onerous alternative to listing under Chapter 15. Unlike a listing under Chapter 15, for an overseas investment company seeking admission under Chapter 14 there was:

- no requirement that the manager of the investments had adequate experience;
- no obligation to spread investment risk;
- no requirement for a three-year trading record;
- no requirement to maintain a board of directors that was independent of its manager;
- no prohibition on controlling or managing investments;
- no restriction on cross-holdings and concentration of investments; and
- no requirement to appoint a sponsor.

Instead, a listing under Chapter 14 required only the production of a Prospectus Directive compliant prospectus and compliance with the basic listing requirements applicable to all listed companies. Further, following listing, entities listed under the Chapter 14 regime had only basic continuing obligations compared with companies seeking a primary listing under Chapter 15.

The Latest Developments

There was, however, some criticism of this relaxation of the Listing Rules, including attacks from the investor representative bodies. The typical concern that was expressed was that by opening up the option of listing

under Chapter 14 to overseas investment entities, the FSA undermined the investor protections enshrined in the more onerous standards of Chapter 15.

Consequently, on 29 June 2007, the FSA published a further consultation paper setting out further revisions to the investment entities regime, and the latest FSA Policy Statement in December sets out the proposed Listing Rule changes to apply with effect from March 2008. These revisions are broadly in line with the proposals set out in the June consultation paper and the key changes are:

- investment entities are prohibited from listing under Listing Rule 14;
- removal of the requirement for the applicant to have "sufficient and appropriate experience" to be able to list under Chapter 15 of Listing Rules;
- implementation of the proposal that in relation to board independence, more than one manager representative is permitted to sit on the board of a listed closed-ended fund;
- feeder funds are allowed to list under Chapter 15;
- removal of existing quarterly disclosure requirements; and
- adoption of the proposal for a new exemption for co-investment arrangements from the requirement that the investment manager must be a "related party", in order to facilitate such arrangements.

Existing investment entities listed under Chapter 14 of the Listing Rules will be permitted to remain listed under Chapter 14, but going forward all investment companies will be listed under Chapter 15. The amendments to Chapter 15 have been designed to make the listing regime more attractive and competitive, particularly to issuers focused on alternative investment strategies such as private equity and hedge funds. It will be interesting to see whether the proposed regime change will retain the confidence of investors while at the same time encourage more issuers to list on the LSE as opposed to competitor markets.

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