Centillion's London Capital Markets Newsletter

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CENTILLION

Standard Listing: Credible, Flexible & Accessible

Companies from all corners of the World and an increasingly diverse range of industries continue to be attracted to the London Stock Exchange ("LSE") by both the status and recognition associated with a listing on the LSE and the wide investor base to which it gives access. Notwithstanding this perennial appeal, the LSE remains conscious of the need to keep pace with the ever-evolving requirements of both actual and potential issuers as well as the competitive challenge it faces from other international bourses.

In recent years the LSE's efforts to address these market forces have been evident in a number of developments including the revamping of the Main Market regime in April 2010 and opening the High Growth Segment in March this year. In both cases these developments were driven primarily by a desire to offer issuers a wider and more flexible range of products.

However, faced with such choice, it is important that issuers have a clear picture of what distinguishes the various options they have and a thorough understanding of the related obligations. The purpose of this article is to examine these concepts in the context of standard listings.

Background

The fundamental distinction between a standard and premium listing is that the former is only subject to the *minimum* listing requirements imposed by European Union ("EU") legislation for admission to a regulated stock market, whereas the latter is subject to more onerous "super-equivalent" standards set by the UK Financial Conduct Authority ("FCA"), and which go beyond the minimum required by the EU.

Listing Requirements

For standard and premium listings alike the company must satisfy certain basic admission criteria:

- ***Market capitalisation:*** must be at least GBP700,000;
- ***Share capital:*** must list the whole class of the shares for which admission is sought; and
- ***Free float:*** at least 25% of the shares must be in public hands at admission.

The key differences on listing are:

- ***Sponsor:*** standard listed companies are not required to appoint a financial sponsor in respect of their corporate activities. This can have cost saving advantages over a premium listing, AIM or the high growth segment – each of which mandate some form of adviser.
- ***Track Record:*** companies seeking a standard listing are not required to satisfy the accounting track record hurdles that apply to premium listings and, to a lesser extent, the high growth segment. An issuer seeking a premium listing must have unqualified audited or reported on accounts covering at least three years, which must be the latest accounts for a period ended not more than six months before the date of the prospectus and which must be consolidated for the applicant and all its subsidiary undertakings. A premium listing applicant must also show that at least 75% of its business is supported by a historic revenue earning record covering its last three years' accounts.
- ***Control and Independence:*** the three year track record requirement goes beyond accounting – a premium listing applicant must also demonstrate that it controls, and has for the last three years controlled, the majority of its assets. It must also show that it is carrying on an independent business as its main activity. There is no such requirement for a standard listing.
- ***Working Capital:*** the Listing Rules require that a premium listing applicant's working capital statement must be unqualified, whereas a standard listing applicant may include a qualified working capital statement in its prospectus. In many circumstances this distinction may have little practical importance, as many issuers are unlikely to attempt to seek funding on the back of a qualified working capital statement.

Ongoing Requirements

Once listed, the ongoing regulatory and corporate governance obligations on the two segments also differ. Both segments require:

- ***Continued trading:*** that the company's listed equity shares must be admitted to trading on a regulated market at all times; and
- ***Free float:*** that the 25% public float requirement is satisfied at all times.

However, there are a number of notable areas where the standard listing regime is less onerous:

- ***Related party transactions:*** for standard listings there are no restrictions on related party transactions (essentially transactions between the issuer group and any directors or large shareholders of the issuer group). This contrasts with the requirements for premium-listed companies to obtain shareholder approval for such transactions above certain thresholds, as well as director confirmation that the terms are fair and reasonable for the shareholders (supported by advice from an independent financial adviser), and to disclose related party transactions. Not being subject to such mandatory restrictions allows the directors and management of standard-listed companies greater flexibility to negotiate and complete such transactions speedily.
- ***Significant transactions:*** a standard-listed company is not obliged to obtain shareholder approval for any significant transactions, whereas premium-listed companies and AIM companies require prior shareholder approval in the event that a proposed transaction triggers certain prescribed thresholds.
- ***Delisting:*** shareholder approval is required for the cancellation of a premium listing, a listing on the high growth segment or on AIM, whereas no shareholder approval is required to cancel a standard listing.
- ***Pre-emption:*** companies with a premium listing must offer their shareholders pre-emption rights. A standard listing is not subject to any such requirement.
- ***Corporate governance:*** premium-listed companies are mandatorily subject to the UK Corporate Governance Code including its obligation to "comply or explain" any non-compliance with the Corporate Governance Code. The Corporate Governance Code does not however apply to standard-listed companies, which are only subject to the less comprehensive ongoing corporate governance obligations of Rule 7.2 of the Disclosure and Transparency Rules, which require that the annual directors' report include a statement on the company's corporate governance practices, with a description of the board and its committees and the main features of the internal control and risk management systems. So whilst there is an obligation to describe the corporate governance protections that are in place, a standard-listed company does not face the potential awkwardness of having to explain any non-compliance with mandatory corporate governance obligations. That said, there is a growing trend for standard-listed companies to voluntarily elect to commit to observing the requirements of the Corporate Governance Code.
- ***Directors dealings:*** the Model Code on directors' dealings in securities set out in Listing Rule 9 does not apply in respect of dealings in a standard-listed company's securities by directors and employees, although insider dealing laws do apply. It is common, however, for standard-listed companies to voluntarily adopt the Model Code – but where the Model Code is voluntarily adopted, the FCA has no authority to monitor compliance or impose sanctions in the event of non-compliance, so it will be for the standard-listed company's board of directors to ensure compliance with the provisions of the Model Code.

Summary

Generally the perception is that standard listings are attractive for companies which do not meet the more stringent eligibility requirements for premium listings, and at times as a stepping stone to a premium listing. However, given the greater flexibility and less onerous ongoing regulatory and corporate governance obligations attached to standard listings, companies should give greater consideration to whether the advantages offered by a standard listing may make it the preferred option. In the next month's issue we will consider some practical examples of when a standard listing might be the best choice for an issuer.

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