

Jonathan Hill, Baron Hill of Oareford
HM Treasury
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United Kingdom

Submitted by email, 8th February 2021

Dear Lord Hill,

BlackRock welcomes the opportunity to contribute to the review of the UK's Listing regime. We note, however that listing itself comes relatively late in a company's development, and while it is good that the Government is looking at ways to enhance the listings process, the issue of capital formation at earlier stages of a company's development and access to sources of funding thereafter will need to be addressed if the Government is to realise its goal of incubating and growing more domestic companies. In particular, realising the potential of DC pension savers to help companies grow, and in so doing reap the benefits of those investment opportunities.

Turning to the issues raised in the current review, we think it is essential that the interests of end users of the listing rules, issuers and investors are paramount.

Issuer interests

In many respects the current arrangement of premium, standard and the AIM categories affords issuers a sufficiently flexible range of listings options from which to choose. However, anecdotal evidence suggests that the system suffers from a perceived hierarchy between the different standards, meaning that the high regard in which the premium segment is held can lead to reputational disadvantages for the other segments, despite their being appropriate listings vehicles for many types of company. While these disadvantages might be of perception rather than of substance, this may nonetheless have a material impact on the attractiveness of the UK listing regime as a whole, and we recognise the intention of the review to redress these shortcomings in an appropriate timeframe.

Investor interests

In tackling these issues, the review should ensure that the interests of investors, both in terms of available investment opportunities and the ability to mitigate risk are preserved. This means that any changes to enhance issuer control should be justified by increased investment opportunities for savers and be accompanied by safeguards to maintain a high level of investor protection. Investors want access to attractive companies to achieve their financial goals, especially those required or encouraged to invest in the UK, while maintaining freedom of choice and not turning index funds into forced buyers, especially in a context of auto-enrolment and efforts to democratise investment. The system should also ensure that investors have enough visibility and oversight of their investments.

Dual class share structures (DCSS)

Ideally, the premium category should retain its attractive ‘one-share-one-vote rule,’ which is a significant draw for investors. However, there could be some flexibility were it to be the case that the current arrangements deter companies from listing in the UK. This could take the form of an option for a standardised non-transferable DCSS with a sunset clause. In addition, there should be a number of reserved motions or topics where one-share-one-vote would apply regardless of the wider DCSS structure. Such matters should continue to include all issues where an extraordinary vote is already required, such as acquisitions and disposals as well as certain capital raisings. Consideration should also be given to recalibrating the thresholds for shareholder resolutions, drawing on international comparisons.

Free float

We can also envisage more flexibility around the free float. This may not be necessary in addition to the DCSS given the relationship between the two, and issuers wishing to avail themselves of both forms of flexibility would need to offset the increased risks to minority investors with clearly defined reserved matters prescribed by the regulator. Again, in order to protect minority investors, certain decisions should be subject to supermajorities, the size of which should be proportionate to the level of the free float. In all cases, a reduction in the current level of the free float should be subject to a liquidity test undertaken by the FCA to avoid conflicts of interest within listing authorities. To do this effectively the concept of ‘shares in public hands’ should be more properly defined. This could be achieved by, for instance, using clearer definitions of underlying funds; delineating the level of shares which are locked up and those that are not; having clear investor types, and clarifying the number of shares that are free to trade.

Prospectus and track record requirements

In terms of issuer requirements, we are supportive of recalibrating the prospectus thresholds in line with the needs of the UK market. The onus should be on reducing the administrative burden to that necessary to ensure investor confidence. Similarly, we believe the track record requirements could be more flexible. There can be weak companies with good track records, while the current track record rules can be distorted by cyclical effects and mitigate against a level playing field between established companies and IPOs. The review should consider whether profit forecasts should be permitted at IPO.

Direct listings

There are other considerations to enhance the effectiveness of the UK listings regime that the review could take the opportunity to address. More consideration should be given to the possibility of direct listings. Unlike IPOs, *Direct Public Offerings* enable entrepreneurs to avoid expensive bank and other charges, as well as control more easily what proportion of their companies are available to investors. However, there are risks for both the company and investors as well, such as the lack of a ‘greenshoe’ option or protection from short term volatility for large shareholders. The FCA could consider the recent decision by the SEC,¹ which, while enabling companies to avoid bank fees and avoid lock-in rules, gives them more discretion over the volume of the company listed.

Essential corporate governance standards

The review is also an opportunity to ask whether minimum standards across the other listing segments are appropriate. The AIM segment currently includes companies which, although they have a market capitalisation on a par with many FTSE100 listed companies, are held to entirely different corporate governance standards. Where this is the case certain conditions should apply. These include requiring board approval (at a minimum) for related party transactions and greater shareholder involvement in approving executive remuneration policies. We also suggest that there should be a governance standard glidepath, at least on a ‘comply or explain’ basis (i.e. companies reaching a certain growth point should have to justify why their current approach remains appropriate or should be strengthened).

¹ <https://www.sec.gov/rules/other/2020/34-90768.pdf>



Non-legislative considerations

Finally, there are some non-legislative actions to consider. As noted above, the listings regime suffers from a perceived hierarchy between the segments, and a rebranding exercise is needed to present the different categories as a cohesive whole offering issuers and investors different options at different stages of a company's development. In particular, the status of the standard listing needs to be enhanced so that it is not seen as a second-class option. Underpinning all the segments, however, should be some overarching standards that differentiate the UK as a high-quality regime across the board, such as strong corporate governance requirements for larger companies as mentioned above, SASB disclosure and mandatory TCFD reporting for all issuers, as we argued for in the recent FCA consultation.² Thereafter, a bigger effort should be made to promote the UK as a listings venue overseas, which could start by reviewing and replicating best practice.

We look forward to continuing engagement with you and your team as the review progresses and are available to discuss these and any other issues in more detail.

Yours sincerely,

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² <https://www.blackrock.com/corporate/literature/publication/fca-proposals-to-enhance-climate-related-disclosures-by-listed-issuers-and-clarifications-of-existing-disclosure-obligations-100520.pdf>

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