

Consumer Panel response to CP06/4: Implementation of the Transparency Directive and Investment Entities Listing Review**

Introduction

Implementation of the Transparency Directive: The Consumer Panel broadly supports the changes proposed in the Consultation Paper and we are pleased that as a minimum harmonisation directive the UK will be able to keep its existing information requirements and there will be no dilution of the protection afforded to investors.

The Panel's response to the specific questions posed in the Paper is set out below.

Transparency Directive

Q1: Do you agree with our proposal not to add to the Transparency Directive (TD) requirements for interim management statements? Do you feel that FSA guidance in this areas at this stage would be helpful or unhelpful, and why?

We do not believe there is a need to add to the TD requirements for interim management statements. Given that any guidance would be high level we do not see a need for FSA guidance.

Q2: Do you agree with our proposal to copy out the TD requirements on ongoing information to holders of securities and with our analysis of the implications for issuers of convertible securities?

Yes.

Q3: Do you agree that this Listing Rule requirement [for issuers to either send half-yearly reports to holders of its listed securities or insert the report as an advertisement in a national newspaper] should be removed?

Yes, subject to there being easy ways for investors to obtain information.

Q4: Do you agree with our proposal to retain the existing requirement for listed issuers of exclusively wholesale debt to produce annual reports? If not, is this because you believe that investors will be able to rely on other information provided to investors, such as that from credit rating agencies, to make investment decisions about such securities?

Yes, we agree with the FSA's proposal to retain the existing requirement.

Q5: do you agree that the approach taken in relation to the Professional Securities Market should mirror that for wholesale debt issuers?

Q6: Do you agree with our proposal to retain this existing Listing Rule [issuers not producing consolidated accounts to reflect in half-yearly financial reports any accounting policy changes that will be applicable in the final year-end reports] on the basis that this provides additional clarity to the TD requirement [issuers that are not required to prepare consolidated accounts to provide a description of the nature and effect of any change to accounting policies and presentation]?

Q7: Do you agree with our proposal to retain this existing Listing Rule [for issuers to notify a Regulatory Information Service as soon as possible after the issuer's Board has approved any decision to pay or make any dividends or other distribution, or to withhold any dividend or interest payment] on the basis that this provides additional clarity to the TD requirement [issuers to publish notices or distribute circulars concerning the allocation and payment of dividends]?

We agree with all three of these proposals and the approach.

Q8: Do you agree with the proposed change of preliminary statements of annual results from a mandatory to a permissive regime?

Yes, this should be a matter for the Board of the company.

Q9: Do respondents agree with our proposed retention of the above Listing Rules? [requiring certain information to be included in an issuer's Annual Report]

We agree.

Q10: Do you believe these Listing Rules provide benefits? If you do, please explain how you use the information covered in each of these rules. If you were not able to access such information through Annual Report, but could access it from other (possibly fragmented) sources, would you be disadvantaged?

We have no view on the importance of each of the requirements. However, if there is considered to be benefit then there would be merit in the information being contained in one place, ie the annual report.

Q11: Do you agree that we should apply major shareholding disclosure rules to holdings in issuers with shares admitted to trading on a regulated market, and to holdings of shares of UK companies traded on exchange-related markets such as AIM and OFEX? Alternatively, do you think the scope of the shareholder notification requirements should be limited to the TD minimum: holdings in issuers with shares admitted to trading on a regulated market for which the UK is the home member state?

In our view major shareholding disclosure rules should be applied to holdings in issuers with shares admitted to trading on a regulated market and to holdings of

shares of UK companies traded on exchange-regulated i.e. AIM and OFEX markets. We are strongly opposed to the requirements being limited to the TD minimum.

Q12: Are there any notifiable interests under the Companies Act 1985 that you consider are not covered by the TD but which you believe should be maintained? Do you agree that the partial exemption from notification for voting rights held in the trading book should be available to credit institutions and investment firms? Do you agree with either of the two alternative approaches to replicate, or make more stringent, respectively the effect of the CA1985 for stock lenders? Are there any side effects?

We have no view on this.

Q13: Which of the approaches (TD minimum or CA1985) to notification thresholds would you prefer? Depending on the thresholds adopted, do you agree with our proposed implications for disclosures by market makers?

We would prefer to leave the notification thresholds unchanged rather than reduce information going to the market and other investors.

Q14: Which of the notification deadlines (TD minimum or CA1985 and Listing Rules) would you prefer?

We would prefer to leave this unchanged, ie the TD minimum.

Q15: Do you agree that the FSA should mandate the continued use of the Primary Information Provider/Secondary Information Providers regime for issuers for whom the UK is the home Member State?

We have no view on this.

Q16: Do you have a preference for either of the storage models (commercial Officially Appointed Mechanisms or FSA operated OAM) or suggestions for further alternative model(s)?

We have no strong view, but on balance believe a commercial OAM would be more responsive to changing market needs.

Investment Entities Listing Review

Q1. Do you agree that the current approach towards the need to spread investment risk should be replaced with one that is principles-based?

We have no objection to this.

Q2: If so, do you agree that the proposals described, including the requirement for an annual statement, represent an effective method of achieving the desired outcome?

Yes, but we would like any investment forming 20% or more of portfolio to be justified specifically.

Q3: Do you agree that investment entities would benefit from greater flexibility in their choice of investment strategies, including short selling, and should the listing regime accommodate investment entities that take advantage of this increased flexibility?

We agree.

Q4: Do you agree that the requirement for an investment entity to be a passive investor should be removed?

Yes.

Q5: Do you believe it is desirable, or possible, for investment entities listed under this chapter to take controlling stakes in companies in which they invest, without undermining the listing regime for other listed (i.e. trading) companies?

No.

Q6: Do you agree with the proposal to rely on a more general requirement for feeder funds to control the investment policies of entities in which they invest, rather than the current provisions regarding board representation?

We agree.

Q7: Do you think we should consider accommodating master-feeder funds where the investment entity fails to control the investment policy of the investee, and, if so, how?

No.

Q8: Given that a working capital statement is in any case required under the Prospectus Rules, do you agree that requiring an investment entity to satisfy the FSA that it and its subsidiary undertakings (if any) have sufficient working capital for at least twelve months on listing is appropriate?

Yes.

Q9: Do you agree that the eligibility conditions regarding the level of independence between boards and their investment managers should be extended to VCTs?

We strongly support this proposal.

Q10: Do you agree that if an investment entity employs an investment manager authorised by the FSA to conduct investment activity, then it should be considered to have the necessary experience to meet the eligibility test?

Yes, but the Board will still be ultimately responsible.

Q11: Do you agree that the restrictions placed on property investment companies should be removed?

We have no view on this proposal.

Q12: Do you agree that a secondary listing should not be available to investment entities and that if an overseas investment entity wishes to list, it must submit itself to the full listing regime contained within this document?

Yes, otherwise investor protection is weakened.

Q13: Do you agree that Investment Companies with Variable Capital should be considered eligible for listing by virtue of their regulatory status?

We have no objection to this.

Q14: Do you believe that we should introduce new rules for authorised unit trusts?

The Panel has no view on this question.

Q15: Do you agree that an overseas collective investment scheme that is a recognised scheme should be subject to the full eligibility regime?

Yes.

Q16: Do you agree with our analysis regarding collective investment schemes that are unrecognised schemes?

We have no opinion on this question.

Q17: Do you agree that there is a gap in the present disclosure regime and that a new requirement for investment entities to disclose significant changes to their risk profiles is appropriate?

We agree that such a gap exists, but it is difficult to envisage how a new disclosure requirement would work in practice.

Q18: Do you agree with the proposal to remove the requirement for detailed monthly and/or quarterly disclosure?

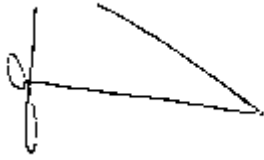
We would like to see the retention of detailed portfolio information as this is of interest to investors and their advisers.

Q19: Do you agree with the proposal to remove financial information requirements and instead to rely on the requirements set by accounting standards to ensure that shareholders have sufficient information?

No, as the information is of interest to investors.

Q20: In relation to the ongoing requirement for boards to be independent of their investment managers, would you support the granting of concessions for Venture Capital Trusts that are already listed and, if so, what would you suggest?

In our view existing listed VCTs should conform, but be given time to fall into line.



Financial Services Consumer Panel

28 June 2006