# United Kingdom Equity Markets Association (UKEMA) response to the FCA Primary Markets Effectiveness Review

## Introductory comments

Following the publication of the UK Listing Review and its recommendations, our members welcome the opportunity to respond to the FCA's consultation paper CP 21/21 and note the willingness of the FCA to engage with market participants in discussing "the purpose and value of our listing regime". We note in particular the striking statistics highlighted in paragraph 1.2 of the CP (from the UK Listing Review) that from 2015-2020 the UK only accounted for 5% of IPOs globally and are keen to assist the FCA by suggesting improvements that could be made to the current UK listing regime. Some initial thoughts and comments are set out below.

In response to the discussion paper element of the CP, our members have the following general observations. They feel strongly that the current listing model should be retained, i.e., having two segments, "premium" and "standard" (although the naming and branding of these segments should be revisited (see below)). It is important that the sponsor regime is retained within the "premium" listing segment as it offers the market an assurance of an independent third-party review of certain transactions and acts as a form of protection for investors. It is integral to the perception of premium listing being a gold standard listing venue with high quality oversight and high-quality issuers. Our members are not in favour of a single segment regime in which the advantages of a listing with more stringent eligibility and continuing obligations requirements are lost and such requirements are reduced to the lowest possible acceptable level in the market.

### *Premium v standard listing*

In our members' view, the standard listing segment has not been the success that had been anticipated when it was introduced in [2010]. Whilst the differences between the two segments are well understood by advisers, they are perhaps less well understood by investors or issuers contemplating an initial public offering (IPO) and there is not sufficient differentiation with the AIM market. AIM is a very popular market with small and mid-sized companies contemplating an IPO because it is well known and understood, perhaps because of well targeted marketing initiatives by the AIM team, whereas many companies have not heard of the standard listing segment and are not aware of the benefits it can offer.

By contrast, to those who are aware of standard listing, many view it as a poor relation of premium listing, aimed at those companies who do not fulfil the eligibility requirements for premium listing, such as the 3-year track record. This perception is not helped by its name, as by definition "standard" listing is seen as not as good as "premium". In our view, this is an ideal opportunity for the FCA to retain the two listing segments and to rebrand them so that they are seen as different but complementary rather than superior and inferior versions.

In addition, UKEMA members see this consultation as an opportunity for the FCA to consider the "gold plated" elements of a premium listing afresh. Many companies choose AIM/standard because they are particularly acquisitive and do not wish to be constrained by the requirements of Chapter 10 of the Listing Rules. The FCA may wish to consider whether the 25% Class 1 threshold set out in Chapter 10 could be increased to a slightly higher figure.

***Sponsor regime***

Our members are strongly in favour of retaining the sponsor regime which they believe is a strong differentiator for the premium listing segment which, as set out above, provides high quality assurance to the market and acts as a form of protection for investors. Additionally, the Sponsor offers corporate governance guidance, advice and repressibility to the relevant issuer. Importantly, the sponsor regime is different from the AIM nominated adviser regime by providing oversight over key events in a company's lifecycle such as a significant acquisition or a further listing of shares rather than continuous oversight which is more appropriate for smaller less developed companies.

However, many of our members are sponsor firms and would welcome opportunity to engage with the FCA in constructive feedback about the operation of the sponsor regime in practice. Whilst members welcomed the publication of certain guidance notes in 2018 clarifying the FCA's expectations in several areas such as working capital and record keeping, as a general observation, increasingly there is a view that acting as a sponsor is overly burdensome given the administrative and day to day record keeping requirements. This can lead to an overly rigid rule-based response to the regime focussing on record keeping rather than a more proactive sponsor role. In addition, members would welcome flexible dialogue with the FCA particularly in relation to the more difficult areas which sponsors come across in practice where a collaborative, open and perhaps less formal approach between sponsors and the FCA would be appreciated, especially before making formal written submissions.

## About the UKEMA:

### About the UK Equity Markets Association (UKEMA)

The UK Equity Markets Association (UKEMA) is a newly established and growing group of small and mid-cap investment banks and equity brokerage firms. UKEMA represents its members by increasing awareness of small and mid-cap equity investment brokers' value in supporting SMEs to access capital to reach their potential and improve regulation by engaging with policy makers and regulatory bodies.

UKEMA members trade in over 2,000 companies shares, representing 57% of shares traded by volume, and 12% by value of all shares on the LSE. Members write research on over 1,700 companies' shares, representing 87% of all UK listed issuers.

Its membership includes Peel Hunt, Shore Capital, Winterflood, Numis, Arden Partners, Stifel, Liberum and finnCap.

### What does UKEMA do?

UKEMA's members work together to reduce market access barriers and help policymakers as they develop new frameworks to support and develop the regulation of equity markets. To do this UKEMA seeks to ensure domestic regulation provides appropriate protections without being overly burdensome in order to support public markets and the essential liquidity they provide.

### UKEMA supports economic growth

Small and mid-cap equity brokerage firms help SMEs reach their potential, supporting the UK's post-pandemic economic recovery. UKEMA promotes solutions to allow UK equity markets to thrive, supporting the drive to grow the number of listed companies and increase competition, and helping to make the market more resilient to crises.

## Detailed response

### Chapter 3: Discussion of the purpose of the listing regime

**1. Would a single segment for equity shares in commercial companies meet the needs of both issuers and investors?**

There is a strong case for retaining the current premium and standard listing. A standard listing is a necessity, given various categories of companies and associated requirements.

Either Option 3 or 4 would be preferable in order to retain the existing two segments, while still enabling changes to make standard listing more attractive and encourage more companies to consider a standard listing.

**2. Which elements of the existing listing regime would you consider it most difficult or least desirable for issuers and/ or investors to operate without? Are there any particular elements you would reinstate? i.e., the controlling shareholder regime, or the free float requirements**

***Not responding to***

**3. Would the role of the sponsor be a significant loss? Is their role under any specific element of existing requirements considered significantly beneficial to issuers or investors currently?**

Yes. There are several reasons why the role of the sponsor is significant and adds value. Without a sponsor/corporate broker, investors lose a key point of contact for questions or concerns which is essential to the success of investments. Additionally, a sponsor offers a layer of investor protection, Corporate Governance guidance & advice & repressibility. This is particularly relevant for overseas companies unfamiliar with UK rules, regulation & compliance.

**4. What would be the benefit of being admitted to the Official List rather than just admission to a trading venue?**

There are certainly benefits such as wider eligibility for certain funds and recognition within indexes for being admitted to the Official list, however, at present, there is a lack of understanding regarding the distinction between being admitted to the Official List and being admitted to a trading venue, this can cause additional confusion to investors.

**5. Should we have a role in approving the admission criteria set by trading venues and/or indices? Could adequate investor protection be maintained if different trading venues compete on admission requirements?**

UKEMA supports retaining the current standard and premium listing, rather than combining the two to create a single segment for equity shares. There is a clear market for premium listing, so this should be preserved in any reform in order to support the needs of the market and to protect London's reputation and attractiveness for future listings.

A standard listing is also a necessity, given the various requirements for this form of listing for various categories of companies. UKEMA believes that more can be done to improve the perception and effectiveness of standard listing, noting in particular the growth in attractiveness of AIM and the size of companies currently remaining on AIM instead of seeking a standard listing. The rules and purpose of AIM as a junior market is therefore having an impact on the attractiveness of standard listing.

UKEMA supports either Option 3 or 4 in order to retain the existing two segments, while still enabling changes to make standard listing more attractive for the profile of company the UK is seeking to encourage to consider a standard listing.

That aside however, we would be supportive of the FCA setting minimum admission criteria requirements which the trading venues/indices would be equally required to enforce appropriately. Minimum requirements should be commensurate to the size of the Company and therefore it may be appropriate for smaller companies to have lighter requirements.

**6. What types of issuers would find it hard to comply with the standards within the existing premium listing segment and why?**

Currently special purpose acquisition companies (SPACs) and cash shells, particularly from overseas jurisdictions find it challenging to comply. Equally start-ups which do not have a three-year audit track record struggle to meet the standards. In our view, the conditions for premium listing combining the highest standards of regulation and corporate governance may deter such entities from listing in the UK.

**7. Do unlisted markets provide a suitable alternative to listed markets? Would a gap emerge for any particular type of issuer? Do you consider there would be any particular benefits or drawbacks to this approach?**

"Unlisted markets" could provide a suitable alternative where they offer liquidity to businesses where it otherwise might not be available and could be construed as a suitable alternative compared to having no trading facility / venue at all.

It is also relevant to note that the pre-cursor to AIM, the Unlisted Securities Market (USM) was a success in encouraging companies to market their shares for the first time.

**8. What types of companies or strategies should the 'alternative' segment be aimed at?**

In our view the alternative segment should be aimed at tech start-ups, specifically entrepreneur led or crowd-funded type start-ups.

As the types of organisations that London is looking to attract, this would present a significant opportunity in creating a segment which could meet the needs of these businesses as well as their circumstances.

**9. Do the existing provisions in the standard segment need to be changed to suit these companies, either through relaxation or to provide additional shareholder protections?**

Linking to the response to question 8 adaptations would be necessary for a number of companies, including some start-ups or cash shells.

There are examples of some of these types of companies coming to market with no provision to provide liquidity to market makers – indeed on occasion the reverse has been the case with market abuse or possible "share ramping" being suspected due to their post IPO share price behaviour.

To avoid these situations, UKEMA supports provisions to be made for liquidity providers to have access to "green shoe" liquidity in order to preserve an orderly market.

Furthermore, full and simple transparency as well as disclosure should be given to pre-IPO funding timing, including amounts and valuations to prevent multiple valuation uplifts within short time frames. We would further suggest the FCA consider a limit on valuation uplifts within short time periods to prevent companies being formed within quick succession of having been founded and/or having pre-IPO funding rounds at very large discounts within just days or weeks preceding a premium priced IPO.

There are a number of other suggestions that could help preserve confidence in the markets:

- Ensuring a Broker is compulsory.
- Adhering to IFRS, UK GAAP or equivalents accounting standard.
- Requiring a large majority of free float shareholder approval to delist.
- At least two Independent Directors being in post.
- An FCA approved prospectus being produced at the point of listing.
- Requirement to adhere to a corporate governance code.
- Requirement of a minimum 10% free float.
- Imposing a maximum uplift limit of pre-IPO to IPO valuation for SPAC/investment vehicles within a short time frame (under a year) so companies are prevented from setting up and raising pre-IPO money at 50x or 100x valuations within a few weeks or months of their formation.
- A mandatory provision to allow market makers / liquidity providers access to all IPOs to support market integrity by avoiding unwanted volatility, settlement dislocation and market abuse practices such as ramping.

**10. How important is our role in setting additional admission standards to listing in the 'alternative' segment? Are there any benefits to this role being performed by us rather than a trading venue, or market discipline?**

***Not responding to***

**11. Do you consider the alignment between admission to the index and admission to the 'senior' segment to be important? Should the indices consider setting more objective admission criteria?**

***Not responding to***

**12. How can the process for listing debt and debt-like securities be improved for issuers without jeopardising investor protection?**

***Not responding to***

**13. Should there be a separate listing segment for debt and debt-like securities?**

***Not responding to***

**14. Which particular elements of the listing regime could be tailored to improve their effectiveness for other types of securities? In what way?**

***Not responding to***

**15. Do issuers consider the process of admitting further issues to both the FCA and the trading venue to be burdensome?**

As outlined in our introduction UKEMA would note that indeed there is a view that some processes are overly burdensome, and we would welcome immediate as well as ongoing dialogue with the FCA. Meanwhile, if the process around admission were to be updated, UKEMA would stress the importance of a number of minimum standards remaining in place to ensure only high-quality companies are brought to market preserving investor confidence in the markets.

**16. Would the existing procedures conducted by trading venues to ensure issuers comply with their disclosure obligations (production of a prospectus) need to be enhanced if we were to cease admitting further issues to the Official List? What costs would be associated with these, if any?**

***See response to question 15.***

17. Are there any legal, regulatory or tax requirements that are connected with further issues being admitted to the Official List, that could not be maintained by further issues being admitted to a trading venue?

***See response to question 15.***

## Chapter 5: Dual class share structures

**18. Do you agree with our rationale for introducing DCSS to the premium listing segment? Is there any additional evidence that we should consider?**

The majority of UKEMA members agree with the rationale for introducing DCSS to the premium listing segment and to the proposal for a 20:1 ratio and five-year sunset period.

We recommend additionally that the FCA review the operation of DCSS after sufficient time has passed to enable an assessment of whether the proposed weighting ration and five-year period has had the desired policy effect of attracting more target profile companies to list in the UK by taking advantage of these flexibilities, in order to assess whether further changes are needed.

**19. Do you foresee any limitations to our proposal if the weighted voting shares are unlisted?**

UKEMA would welcome transparent information on free-float to be considered in addition to the detail of any dual class share structure - whether those be listed or unlisted. This should be made freely and readily available to all investors as this would allow for better decisions being made by investors and improve price formation processes.

**20. Do you consider that a five-year sunset period for DCSS in the premium listing segment is the correct length to protect companies from unwanted takeovers? Please provide evidence for your answer.**

***Not responding to***

**21. Do you consider that the mechanism proposed will be effective in providing a deterrent to unwanted takeovers? Please give reasons for your answer and any possible alternatives.**

***Not responding to***

**22. Do you agree with the proposed controls around DCSS in the premium listing segment? Are there any additional controls that would make the regime more effective?**

See answer to Q19 on transparency on any such structure.

## Chapter 6: Minimum market capitalisation

**23. Do you agree with our proposal to raise the minimum market capitalisation for companies seeking to list under standard and premium listing to £50m? If not, please state your reasons and indicate what alternative threshold may be more appropriate along with any supporting evidence. We also welcome views on whether we should consider setting out conditions under which we might modify the proposed rule on the new threshold, and if so, what criteria stakeholders think we could usefully consider.**

UKEMA notes that the £700,000 MMC currently in place is taken from EU legislation that can and should be amended. The ability of a company to list and operate successfully on either the Premium Listing or Standard Listing segment is more often defined by their stage of life and level of maturity than just their market capitalisation. FCA should therefore carefully consider whether they wish to set a defined level although we would suggest a lower level than the proposed £50m, such as £25m, would be appropriate.

**24. Do you consider that the current level of market capitalisation for listed debt remains appropriate? Please give reasons for your answer.**

***Not responding to***

## Chapter 7: Minimum number of shares in public hands – 'free float'

**25. Do you agree with our proposal to reduce free float to 10% and to remove current guidance on modifications? Please give your reasons.**

Yes, UKEMA members observe entrepreneurs wanting to obtain a full listing being disadvantaged by the minimum free float requirements of 25%. A reduction to 10% would open the market to a greater number of listings and compete with the smaller percentage equity issues that we see on crowdfunding sites.

Indeed, FCA evidence presented supports a reduction to 10% and agrees with the proposal to remove the current guidance on modification.

**26. Would you find information about issuers' free float level useful to inform investment decision-making?**

Yes, as per responses to Q19, transparent information on free float in addition to the detail of any dual class share structure should be made freely and readily available to all investors and would allow for better decision making by investors and improve price formation processes.

## Chapter 8: Track record requirements

**27. Do you agree with our proposal to leave track record requirements as they are now, based on our assessment that this would only affect a small number of stakeholders? If you disagree, please provide further evidence or examples of the wider impact this has on prospective listing applicants and proposed amendments.**

As noted in responses to Q6 and 9, UKEMA notes that it is important that the three-year track record is kept under review to ensure it serves the purposes it seeks to in providing investors with relevant information, rather than simply creating hurdles which are a significant barrier to newer formed innovative companies.

**28. What types of companies struggle to meet the existing requirement in the premium segment for a 3-year revenue track record covering 75% of the business? What alternatives could be considered for these companies?**

As per responses to Q6, 9 and 27, UKEMA members are aware of some high growth innovative companies, including technology companies, which may find it harder to meet the current track record requirement. Companies which are newer – and therefore do not have 3 years' revenue track record – or those which are more acquisitive in nature and are unable to access the full records of companies they have acquired, may also struggle to meet the requirements.

Given the broader objectives of encouraging this profile of high growth innovative company, particularly in emerging and fast-moving sectors, it is important that track record requirements are sufficiently agile to ensure the UK does not lose its competitiveness and that listings are not incentivised to opt for international alternatives.

## Chapter 9: Minor changes to Listing Rules, Disclosure Guidance and Transparency Rules and Prospectus Regulation Rules

29. **Do you foresee any unintended consequences of these changes intended to modernise the Listing Rules, Disclosure Guidance and Transparency Rules and the Prospectus Regulation Rules?**

***Not responding to***