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HM Treasury – Securities and Markets
Primary Markets and Competitiveness – Listings Power
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Dear HM Treasury colleagues,

Power to block listings on national security grounds

We welcome the opportunity to respond to your consultation on the power to block listings on national security grounds.

The Quoted Companies Alliance *Primary Markets Expert Group* has examined the proposals and advised on this response from the viewpoint of small and mid-sized quoted companies. A list of Expert Group members can be found in Appendix A.

Overall, we recognise the power to block listings on national security grounds as an important development in order to protect the UK's citizens, reduce risk and limit the potential negative impact on the competitiveness and reputation of the UK economy.

However, we stress that it is imperative that the UK remains as open as possible with minimal barriers to entry in order to attract companies and help them raise capital.

If you would like to discuss our response in more detail, please let us know.

Yours sincerely,

Tim Ward
Chief Executive

Q1 What are your views on the Government's intended scope of the listings blocking power as outlined in point 3.6?

The QCA agrees with the Government's intended scope of the proposed power to block listings on national security grounds and also agrees that the power should not extend to secondary trading or companies delisting.

The QCA considers that the intended scope should be clear that it is referring only to situations where the entire issued share capital is being listed, such as through an Initial Public Offering (IPO), or in certain contexts, such as a reverse takeover (RTO). It should not cover the listing of new shares by an issuer already admitted to the Official List or a Multilateral Trading Facility (MTF).

Q2 What are your views on the exclusion of debt securities from the scope of the blocking power?

It is unclear how HM Treasury is seeking to make a distinction between equities and debt fundraising. In particular, it is unclear, in the illustration cited in the consultation, how the position changes on the fundraise depending on whether it was equity or listed debt securities.

While we do not necessarily disagree with the conclusion that the scope should be restricted, we would query whether a debt issuance by a company which does not already have listed (or quoted) securities, which could be debt or equity, should be captured by the proposals.

Q3 Do you agree with the list of disclosures outlined? Do you have any other comment about the disclosures outlined?

On the whole, the QCA agrees with the disclosures outlined in the consultation document. The disclosures in themselves would not create significant additional burdens for issuers. Given that the disclosures would likely already be provided as part of the existing listing process, either where a prospectus is required, or, where issuers are eligible for a prospectus exemption, the disclosures are generally made in the routine disclosures during the listings or admissions process.

However, particularly where an issuer is eligible for an exemption from producing a prospectus, it is not necessarily the case that these disclosures will already be made. Companies that make use of the exemption for producing a prospectus often do so in order to reduce the regulatory burdens associated with a listing. In light of this, the Government should consider more streamlined disclosures requirements for these companies.

Q4 In your view, will the disclosures outlined in Chart 4.A add a material burden to the listing or admission process?

Yes – the disclosures outlined in Chart 4.A will present an additional burden for issuers to the listing or admission process. Despite our broad agreement with the disclosures outlined, it is important to consider that the context in which the disclosures would be made would be different and, as a result, an additional burden for issuers is created.

For instance, the disclosures surrounding major shareholders could be particularly burdensome for issuers, particularly where they are making them around ultimate beneficial ownership and control. An issuer will need to take account of how the Government considers these issues within the context of national security concerns.

Furthermore, and irrespective of whether the disclosures in themselves would create a burden, if they are already produced elsewhere, there is an element of duplication, which inevitably adds to the administrative burden for the issuer.

Q5 Where a prospectus is not produced, what burdens, if any, do you anticipate the disclosures outlined in Chart 4.A creating for prospective issuers and, in particular, SMEs?

The burdens for prospective issuers that the disclosures will create will be more pronounced for SMEs. As a result of their smaller size, these companies typically have fewer resources and more limited capacities, which can make producing additional disclosures difficult, time-consuming and costly. In addition, and as explained in our answer to Q4, the context in which the disclosures will be made will be different to the type of disclosures that the company has produced before.

However, despite being more pronounced, the issues in this regard will be broadly similar where an issuer is seeking admission to an MTF. In addition, the majority of disclosures sought in Chart 4.A would typically be disclosed to the market in other forms of public documentation, such as the AIM admission document.

Furthermore, there are some important points within Chart 4.A that will need clarification. For instance, there are currently regulatory definitions for "Significant" (3%) and "Substantial" (10%) shareholders in the listing rule books and it would be useful to understand the intention behind the threshold for "Major Shareholders".

Finally, under the "Offer" section in Chart 4.A, the proposed requirement to break down the use of proceeds in great detail could be commercially disadvantageous to the issuer. Such information is typically available to, and reviewed by, the sponsor, corporate broker and reporting accountants and could be reviewed through the regulatory framework, if deemed necessary.

Q6 At what stage in the listing process would you consider most appropriate for these disclosures to be submitted?

The overall consideration is the timetable to which the Government is proposing to provide its clearance. This needs to be factored into a listing or admission timetable in order to provide both issuers and the relevant regulator and/or MTF with the appropriate time to react (particularly to a potentially adverse outcome from the Government). While the disclosures will be required, whether the Government would also want to see the [draft] public document that sits alongside this would be relevant to considerations on timetable.

With both a prospectus and an admission document, the publication of either means that the issuer is already in a market facing process and, if they were to wait until then to make the disclosures, the clearance would potentially be at an unfeasibly late stage in a transaction. In regard to admissions to an MTF, this is particularly relevant as an admission document is often not published until formal application is made to the MTF (typically 3 working days prior to admission) and after the book building process is complete. For the process to be efficient and for there to be market certainty, investors and regulators would want the clearance position to be known prior to such publication.

Consequently, the disclosures should be capable of being submitted to Government at an earlier stage in the process before the prospectus (or admission document) has been drafted. The disclosures, therefore, should be made at pre-clearance stage in order to obtain the clearance.

This would allow issuers and their adviser to engage with potential investors and other regulators on the basis of a known outcome.

One potential model that could be considered is in relation to the AIM Rules and the requirement for the disclosure of a Schedule One Announcement in the run up to the admission. The timing of this disclosure can vary in the course of each listing depending on the circumstances and it is important to disclose information which is not going to change greatly in the course of the listing (although the AIM Rules do allow for the Schedule One Announcement to be updated as the listing process progresses). The model used by AIM could be deployed as a basis to develop an appropriate disclosure model for other types of listings. In terms of timing of such a disclosure, again, the AIM precedent provides a useful starting point.

Q7 What are your views on the pre-clearance process proposed in point 4.5?

The QCA welcomes the proposal for a pre-clearance process as set out in paragraph 4.5. The proposed pre-clearance process is a useful mechanism under which potential listing applicants could engage with the Government to address any national security concerns before beginning the actual listing process.

We envisage that this process would be particularly useful for certain potential listing applicants, such as those operating in strategic industries, or those with connections to other sovereign states.

Q8 What are your views on the likelihood of companies choosing a preclearance process when they would otherwise be able to make the disclosures outlined in Chart 4.A alongside the prospectus?

The QCA believes that the likelihood of companies choosing the pre-clearance process would be relatively high. The pre-clearance mechanism will likely be seen as a useful instrument for companies to use to ensure that they will have the ability to successfully list prior to going through the costly and time-consuming process of producing a prospectus or admission document.

Appendix A

The Quoted Companies Alliance *Primary Markets Expert Group*

Andy Crossley (Chair)	City of London Group PLC
Azhic Basirov (Deputy Chair)	Global Alliance Partners Financial Limited
Colin Aaronson	Grant Thornton UK LLP
Stuart Andrews	finnCapp PLC
Andrew Buchanan	Peel Hunt LLP
David Coffman	Cairn Financial Advisers LLP
Richard Crawley	Liberum Capital Ltd
David Foreman	Zeus Capital
Chris Hardie	W.H. Ireland Group PLC
Samantha Harrison	Grant Thornton UK LLP
Stephen Keys	Cenkos Securities PLC
Katy Mitchell	W.H. Ireland PLC
Nick Naylor	Allenby Capital
Jeremy Osler	Cenkos Securities PLC
Niall Pearson	Hybridan LLP
Mark Percy	Shore Capital Group Ltd
Tom Price	Arden Partners PLC
Tony Rawlinson	Cairn Financial Advisors
George Sellar	Peel Hunt LLP
Paul Shackleton	Arden Partners PLC
James Spinney	Strand Hanson
Stewart Wallace	Stifel
Christopher Wilkinson	Numis Securities Ltd
David Worlidge	Allenby Capital