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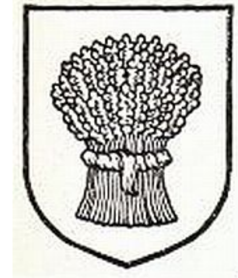

HALLGARTEN + COMPANY

Thinkpiece

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LSE Secondary Listings:
Under a Jaded Eye

March 2025

LSE Secondary Listings

Under a Jaded Eye

- + Investor interest in the mining sector is resurgent due to strong precious metals prices, recovering base metals and the interest in metals related to the industrial-military complex
- + The Labour government has been mouthing sympathies and good intentions towards the City and pondering winding back egregious over-regulation
- × In trying to fix the woefully thin flow of secondary listings in London, the LSE has only made things worse
- × Once again we see the issue of sponsors (official gatekeepers) rearing its ugly head and shaking down companies that seek a London listing
- × The rules are totally unfriendly to mining companies and in particular exclude around 90% of the universe of miners listed outside due to the high entry market cap
- × The prospectus requirement is largely a deal killer as it is too expensive for small companies and a massive interruption for management at larger companies
- × It seems like the LSE neither cares for, nor wants, small investors nor small companies
- × The mining market is ill-served by the latest measures, continuing the trend of erasing London's historical primacy in mining finance

Flailing to Please

Following on from our review of the London Stock Exchange's "new" listing rules last August we now have the new goalposts for secondary listings. These are a subject dear to our heart. However, London has gone from a market teeming with foreign issuers decades ago to a financial Gobi Desert, where it scarcely ever rains and never pours.

As we noted in our last review of the LSE: The LSE is besieged at various levels, losing investor interest & listings (both actual and potential) at its highest levels while an unknown amount of potential smaller entities are being turned away by the hostile, overpriced and over-complicated procedures at the AIM. Indeed, these are the part of the 90% of the iceberg we are not seeing.

Ostensibly the FCA and the LSE are supposedly protecting investors. The investors (particularly the small ones) might be excused for feeling like they have been crushed beneath the feet of stampeding brontosauri, so few are persuaded that their interests have been protected in the last quarter century. The vast horde of "self-serving" individual members of the Stock Exchange per-1986 have been replaced by a much, much, much smaller clique of self-serving investment banks who have rearranged the market in their image, and it is not a pretty one.

In this thinkpiece, we shall look at the "new" secondary listings rules, their foibles and the missed goal that these "changes" represent a new codification of the rules for listed companies on the AIM.

Why List Elsewhere?

Since stock exchanges started to appear centuries ago investors have been tempted to invest in stories that are outside their immediate country or region. Companies have wanted to raise money to fund ventures afar. The first wave of these appeared in London and Amsterdam and thus was born the first multinationals such as the various East India Companies in England, France, Holland and Denmark.

Miners in particular tended to look afar for funds as their projects, particularly after the first flush of the Industrial Revolution, tended to be in newly opening areas. These areas were also capital poor. The development of the Australian, Canadian, South African and Latin American mining industries was largely fired up out of London and even the US mining industry had a degree of London capital lurking in the background.

The mismatch of place and capital has lessened to a degree, but one might note that US capital markets are so weak in mining these days that most of the running is being made by miners from Canada or elsewhere. For investors in the US to access the mining stories in their neighbourhood, they more than likely have to resort to a foreign miner quoted on one of the OTC variants.

As for London, its attractions have been diminished by the white-anting of the pyramidal structure of capital. The potentates decreed that London does not need the lower strata of the mining ecosystem. Basil Fawlty's motto of "No riff-raff" has replaced "Dictum Meum Pactum". Without smaller miners evolving into bigger miners there is no evolution. This is not rocket science. The London Stock Exchange has decided that its *forte* is bigness (which it hasn't done well either) so interesting new stories can quite frankly, "get lost". The London investment sphere still has strengths, but the myopic vision in the LSEG C-suite neither knows, nor cares, about such matters. London still understands Africa better than any other market. London knows Tin and a few other metals better than others. London knew, and maybe still knows, the ex-CIS space better than others. Canadians staged a full-scale retreat from West Africa post-2008, leaving it primarily to Australian and London players. They also fled the ex-CIS after a few ham-fisted pratfalls early this century.

The logic of big investors is that they can invest anywhere. However, from our own experience we know that the large pools of Scandi capital find investing in any CSE listed stories to be very difficult, while US retail investors find TSX-v stories challenging, both on ingress and egress. Australian retail views Canadian miners as a bridge too far. Our own attempts at opening brokerage accounts in Canada have been nothing short of a Calvary.

Secondary listings remain the best means of accessing retail investors in another market. London has singularly failed to take advantage of its enormous capital base and time zone advantage and indeed in its latest measures signals a full-scale retreat from even being a contender.

Infra Dignitatem

In the beginning there was a successful international share marketplace called the London Stock Exchange. Then came the 1990s and it has been all downhill since then.

After ridding itself of troublesome members, the exchange became intent on ridding itself of individual investors and finally on getting rid of troublesome smaller companies. The definition of "troublesome" being smaller. These three groups to be eliminated were regarded as *infra dig* by the new Lords & Masters: an unholy combine by "management" at the LSEG, the regulator in shapeshifting guise (currently termed the FCA) and a coterie of US investment banks that have a Batphone linking them to the two other groups.

All actions taken by the LSE must be viewed through this prism, particularly when they garb them as improvements. It takes little scratching at the surface to find that the triumvirate of entrenched powers in London capital markets are indulging in the usual shell game to bamboozle neophyte Westminsterites that they are really bent on reform when they are really bent onf not reforming.

Blah, blah, blah…. and blah

As always, the well-known London firm of capital markets lawyers, Hill Dickinson gives a good recounting of the new rules.

As part of the package of reforms to the UK Listing Rules (UKLR) the FCA has established a standalone category on the Official List for companies incorporated outside of the United Kingdom with a qualifying home listing as from 29 July 2024.

This category is known as the Equity shares (international commercial companies secondary listing) category (the International Category). It is targeted at companies with a primary listing on a non-UK market and companies that are incorporated outside the UK. The International Category imposes obligations that are very similar to the Listing Rules as they applied to issuers on the standard segment (Standard List) prior to the Implementation Date and the rules have been tailored for issuers seeking a secondary listing. The Standard List was a previously failed excursion into having one's cake and eating it too that eventually fell afoul of London's aversion to Capital Pool Company/SPAC-like structures. On the supply-side though its shortcomings for would-be listers was sclerotic and expensive bureaucracy. One really wonders how many months of backwards and forwards on a prospectus, that is essentially for a cash-shell, does one need?

This "new" category is designed to accommodate overseas companies where either domestic company law or rules flowing from the issuers 'primary' listing venue may make it more difficult to meet certain requirements applying to issuers on the Equity shares (commercial companies) (ESCC) category.

Instead of terming this "Secondary listings" the Stock Exchange has termed this the "International Category". The Hill Dickinson essay is an informative guide to this thicket:

Eligibility requirements

Not all companies with a primary listing located outside the UK will be able to secure a listing on the International Category.

Commercial Company

The applicant must be a commercial operating business, which excludes cash shells and investment vehicles (UKLR 14.1.1). There are separate listing categories for cash shells and closed/open-ended investment companies.

Our comment: The cash shell category has largely died the death in London over the last decade.

Non-UK Company

The applicant must be incorporated outside of the United Kingdom (UKLR 14.2.1). The FCA has made it clear in its response to the consultation on the changes that a UK incorporated company with a primary listing overseas cannot seek a secondary listing on the International Category

Qualifying Home Listing Requirement

The applicant must have a "qualifying home listing" in accordance with UKLR 14.2.6, which is a new concept in the UKLR. To be a "qualifying home listing" the relevant securities need to be admitted to trading in a market which is (i) regulated overseas, (ii) regularly operates, (iii) is a recognised open market and is overseen by a regulatory body that is a signatory to the IOSCO Multilateral Memorandum of Understanding Concerning Consultation and Cooperation and the Exchange of Information (the IOSCO Memorandum). Signatories to the IOSCO Memorandum are broadly the FCA equivalent bodies in each of the signatory jurisdictions which are responsible for regulating public markets. The signatory bodies come from a wide and diverse list of jurisdictions, including, well established jurisdictions (such as Australia, the United States and each of the Canadian provinces) and other less highly regulated jurisdictions. Also, the relevant securities must be capable of being traded on the market of the "qualifying home listing" and be in the same class as the equity shares admitted to trading pursuant to the "qualifying home listing"

Our comment: The list of IOSCO signatories can be found here: IOSCO

Central Management and Control

UKLR 14.2.4R provides that the issuer's central management and control must be situated in, either the country of its incorporation or the country of its qualifying home listing. This requirement was introduced as the FCA were concerned that without it issuers may adopt opaque and complex structures that meet the "qualifying home listing" requirement but which limit the FCA's ability to effectively supervise those issuers and enforce against its rules where necessary. UKLR 14.2.5G provides that where an the issuer is unable to comply with UKLR 14.2.4R the FCA may make exceptions to this rule for issuers

on a case-by-case basis by way of dispensation or modification, provided that the issuer's operational and governance arrangements are not intended to reduce, and do not have the effect of reducing the FCA's ability to monitor an issuer's compliance with their obligations and responsibilities under the UKLR, Disclosure Guidance and Transparency Rules (DTRs) and corporate governance rules, as applicable.

Our comment: This aspect seems innocuous but in fact would kill dead a listing application for the likes of Alphamin, the West's largest tin miner (listed in Toronto and Joburg) as its corporate structure is in Mauritius, its management in Joburg.

Jurisdiction

The FCA can refuse to admit equity shares to the Official List if an issuer's equity shares are not listed in the country in which they are incorporated or in a country where the majority of the applicants' shares are held, unless it is satisfied that the absence of the listing is not due to the need to protect investors. This is a historic requirement which has been carried across from LR 14.2.4R to UKLR 14.2.8. The FCA may ask an applicant's board to explain the reasons for obtaining a qualifying home listing outside of the jurisdiction where the company is incorporated (UKLR 14.2.9G) and what motivated this decision. If an issuer is unable to provide the FCA with a commercial justification for listing in a certain overseas market the FCA is likely to look upon their application unfavourably.

Our comment: Ditto our observations on Alphamin but this also applies to a swathe of BVI headquartered companies. It also prompts questions about jurisdictions with prohibitions on extradition, such as Brazil and Israel.

Prospectus:

Our comment: If our memory does not deceive us, those seeking a secondary listing on the LSE in the past did not require a prospectus if they were not undertaking a raise in conjunction with the listing. This was very attractive and gave the lie to those that claimed there was a lot of bureaucracy involved with a secondary listing in London.

Not to be left behind in the excessive cost of listing, the "new" rules claim that, in accordance with UKLR 3.2.10R (which sets out the eligibility requirements for all securities being admitted to the Main Market), a prospectus is required in connection with a listing on the International Category. This burden is in spite of the fact that one may not be undertaking a financing and one is not actually entering the inner circle of the Main Market. This is a gift to lawyers in that a company is forced to contract legal services for many months to undertake this work (not to mention competent persons et al.). The time delay and the added burden to management in supervising/shepherding this process is also highly unattractive.

Market Capitalisation

There is a minimum £30mn aggregate market value requirement for all new issuers on this category (UKLR 3.2.7R).

Our comment: In other words, 90% of the world's listed miners NEED NOT apply.

Sponsors

Our comment: The old double-discourse on the subject of sponsors/brokers/NomAds is evident again with these "reforms". As we have commented before and many companies can attest, these door-openers offer little value-added and yet are empowered to hold the door open and charge mightily for the service.

Under these new rules, it is interesting to note that, apparently, an issuer is not required to appoint or retain a sponsor when listing on the International Category, but a sponsor will be required in certain situations (such as moving to the ESCC).

That being said we note that Hill Dickinson comment that: "The issuers must appoint a firm to carry out a targeted sponsor service focused on the additional obligations only. For instance, sponsors are not expected to undertake a broader assessment of the issuer's procedures, systems or controls and the sponsor can presume that an issuer that has already been subject to and complying with relevant UKLR (and previously LR), DTR and MAR obligations by virtue of its existing listing has appropriate systems and controls in place unless information arises during the course of its work to indicate otherwise. However, a sponsor would have an obligation to confirm to the FCA that it has NOT identified any adverse information that would lead it to conclude the issuer would not be able comply with the ESCC category listing requirements. This negative form of confirmation differs from the positive form typically provided by sponsors, such as in relation to a new applicant."

Our comment: We are not seeing how an applicant does not require a sponsor, then does. Sigh….

Continuing obligations

The continuing obligations for issuers with shares admitted to the International Category are not as onerous as the obligations applicable to issuers whose securities are listed on the ESCC category and they are based on the requirements that would have applied to issuers on the Standard List prior to the Implementation Date. For example, there is no requirement to adopt the UK Corporate Governance Code. Instead, there is a requirement to comply with DTR 7.2 which requires the Company to include a corporate governance statement in its directors' report which must include details of the corporate governance code the issuer is subject to and any corporate governance code it has voluntarily adopted. The issuer also needs to provide details of the corporate governance practices applied over and above the requirements of national law. The FCA has tried to ensure that the continuing obligations do not duplicate, and are no more onerous, than those of the company's qualifying home listing.

Rules for the International Category, as was the case of the Standard List, do not require issuers to obtain shareholder approval for a reverse takeover (RTO) (UKLR 14.4), which defers from the ESCC where such approval is required. However, the issuer (or its sponsor if it has one) must consult with the FCA as early as possible before a reverse takeover which has been agreed or is in contemplation is

announced or where details of the reverse takeover have leaked. This is in order to discuss with the FCA whether a cancellation of listing is appropriate on completion of the reverse takeover.

A company on the International Category is required to comply at all times with the eligibility requirements and rules of the market of the company's qualifying home listing and must notify the FCA as soon as possible if it no longer complies (UKLR 14.3.2R).

It should be noted that issuers on this category will still need to comply with certain requirements under the DTRs, including, DTR4 (Period Financial Reporting), DTR5 (Vote Holder and Issuer Notification Rules) and DTR6 (Continuing Obligations and Access to Information), as well as certain elements of DTR7 (e.g. Rule 7.2 Corporate Governance Statements and Rule 7.3 on Related Party Transactions).

Our comment: more than a whiff of stultifying bureaucracy here.

Companies on the International Category also need to report on whether or not they comply with the Task Force on Climate-related Financial Disclosures (TCFD) related reporting requirements and if not explain why. Concerns were raised in the consultation concerning the ability of overseas companies to comply with these rules but the FCA rejected these concerns although it said it would keep this under review as they look to revise the climate-related financial disclosure rules as international standards evolve from TCFD to International Sustainability Standards Board (ISSB) based disclosures and as there are developments on reporting in other jurisdictions.

Our comment: Sooooooooo 2023. Shows the LSE is still displaying its "woke"figleaf for all to gaze upon. This clashes with the new Zeitgeist in the US, in particular.

The Hill Dickinson Take on all This

The rules established in this area create an attractive environment for international companies to access the London public markets. A secondary listing in the UK may be an appealing option for an overseas company looking to raise its profile in the UK and obtain greater access to investors and capital. The eligibility requirements and continuing obligations should not be overly onerous for companies that are already listed on established markets which mean there should be limited conflicts between the rules in London and those of a primary listing.

Conclusion

If there was an anthem for the LSE, it would probably be Britney Spears' "Oops, I did it again". One really wonders why the powers-that-be at the LSE bother to go thru the motion of rule changes, that they dress up as improvements but, in the final wash, the effect is zero or negative in attracting new secondary listings, particularly of miners.

As we noted in our previous note on LSE rule "improvements" the main collateral of the LSE's malign neglect has been the AIM market and its denizens whether they be listed entities, the brokerage firms or the hard done by investor class. Our comment was "if you love them set them free". Why doesn't the

LSE demerge (disgorge) the AIM and let it make its own way in the world? Is it afraid that another market present in the UK would become some sort of uncontrollable beast, a NASDAQ redux, eating the lunch of the torpid Main Board with its ossified regulations?

Deregulation is in the air. The undearly departed Tory government genuflected three times each morning to the odious MIFID3 and did nothing to wind back loathsome EU financial regulations post-Brexit. The FCA has subsequently made mutterings of freeing things up but its *rigor mortis*-like grip on the strings of inane regulation requires chopping off at the knuckles before anything can really be achieved.

This latest set of "improvements", that fix nothing, show the paralysis in the whole thought process.

We do, however, see that the AIM set free would almost immediately be subject to a member-led putsch against the ties that bind and hobble market evolution. It is potentially a situation of Prometheus Unbound. We can only hope… for without such a change the junior markets are destined to wallow in shallows and in miseries.

Reference:

Hill Dickinson - https://www.hilldickinson.com/insights/articles/new-listing-category-overseas-companies-secondary-listing-uk

Important disclosures

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