

Corporate & Financial Weekly Digest

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FSA Censures BDO LLP for Failings as a Sponsor

On June 1, the UK Financial Services Authority (FSA) announced that it had censured BDO LLP for failings while acting as a sponsor during the takeover by Shore Capital Group PLC of Puma Brandenburg Limited. This is the FSA's first public censure of a sponsor in relation to the Listing Rules.

In May 2009, BDO was approached by Shore Capital to provide advice as a sponsor on its proposed merger with Puma. BDO was made aware that the transaction might constitute a reverse takeover due to the size of the target company.

The Listing Rules state that a suspension of a listed company's shares will often be appropriate when a reverse takeover is announced, unless the FSA (in its capacity as UK Listing Authority (UKLA)) is satisfied that there is sufficient information already in the market about the proposed transaction. These requirements are designed to ensure the smooth operation of the market as well as investor protection and market confidence.

The UKLA relies on sponsors to ensure that issuers meet their obligations under the Listing Rules, and in its view, it is crucial that sponsors deal with the FSA in an open and cooperative manner, and perform sponsor services with due care and skill.

The FSA found that despite these requirements, BDO failed to liaise with the UKLA in advance of the announcement of the Puma transaction to ascertain whether Shore Capital's shares should be suspended. Instead BDO agreed with Shore Capital from the outset that it would delay contacting the UKLA until after the announcement and attempted to avoid classifying the transaction as a reverse takeover, despite recognizing at the time that this strategy was highly unlikely to succeed.

Marc Teasdale, head of department at UKLA, said: "BDO failed in its responsibilities as a sponsor on this transaction and we are sending a clear message with this public censure about the importance we attach to the sponsor role."

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