

Market consultation

The logo for FTSE Russell, consisting of the words "FTSE" and "Russell" stacked vertically in a white, sans-serif font, centered within a light teal circular background.

FTSE
Russell

Voting rights consultation

Important Information

The proposals set out in this consultation document are included in order to gather feedback and may or may not result in changes to FTSE Russell Index rules.

Voting rights consultation

Responding to the Consultation

Please submit your response to the questions included in this consultation online at <https://www.surveymonkey.co.uk/r/SLF662Z>

If you have any questions about this survey, or if you encounter any technical issues, please contact rpawson@FTSERussell.com.

Introduction

The SNAP IPO was highly unusual in that there were no voting rights attached to the offered share class. The lack of voting rights raised governance concerns, particularly for pure passive managers who are forced buyers. In the light of these concerns, FTSE Russell announced that it would defer consideration of SNAP at the forthcoming Russell index reconstitution and FTSE index quarterly reviews pending a consultation with index users and other stakeholders with regard to the future inclusion of such securities.

This consultation accordingly sets out FTSE Russell's analysis of the issue and provides a number of options for future index inclusion rules. Users and stakeholders are invited to respond by 16th June 2017. The responses will be considered at the June meetings of the FTSE Russell Regional Equity Advisory Committees, and an update on FTSE Russell's proposed approach will be communicated at the end of June 2017.

Analysis

FTSE Russell considers that the inclusion of non-voting shares per se in equity indexes is not in itself the problem. There are several examples of non-voting securities that are eligible for global index inclusion: for example, preference shares (for some markets only) and savings and investment certificates. Non-voting standard listings in the UK have always been eligible for inclusion in FTSE Global Equity Index Series (GEIS). Further, in some markets, such as Thailand, non-voting securities or depositary receipts are taken into account when calculating the headroom available to foreign investors.

FTSE Russell considers that the key criterion that might determine index eligibility is the percentage of a company's voting rights that lie in the hands of non-restricted (free float) shareholders. Enforcing such a minimum threshold for voting rights in the hands of non-restricted shareholders would ensure that minority investors would have some minimum, albeit limited, degree of control over the company. Further, FTSE Russell considers that the imposition of such a threshold would be operationally feasible and would not entail wholesale changes to the construction of standard FTSE Russell indexes.

Proposal

Specifically, FTSE Russell would like to receive feedback on the following proposal:

Certain FTSE Russell index series should implement a minimum threshold for the percentage of voting rights controlled by the shares of the company held in the index (“Index Shares”¹). The percentage of a company’s voting rights held in Index Shares is calculated by aggregating the voting rights of the Index Shares of all the eligible share classes in the company, and dividing this by the total voting rights of the shares outstanding of all the company’s share classes. Wherever possible, the denominator should include the votes of those share classes that are not listed², for example share classes that are reserved for the company’s founders. A company that fails to exceed this threshold would have the eligibility of its securities restricted.

To provide context to the consultation, provisional estimates of the percentage of voting rights conferred by the Index Shares for some US companies are provided in the Appendix.

Questions

1. Do you agree with FTSE Russell’s analysis of the issue?

- Yes, voting rights matter and some minimum threshold with respect to voting rights in the hands of non-restricted shareholders should be set.
- No, we disagree with FTSE Russell’s analysis. Please go to Question 8.

2. For those index series where you believe a threshold for the minimum percentage of voting rights in non-restricted hands is appropriate (please see Questions 6 and 7), where should this threshold be set?

- 5% (consistent with the minimum free float requirement in Russell 3000 and FTSE Global Equity Index Series).
- 10%
- 25% (consistent with the minimum free float in the FTSE UK Index Series for UK incorporated companies).
- Some other percentage. Please state which.

3. For constituents that fail to meet the voting rights hurdle, what restrictions on the index eligibility of their securities should be imposed?

- All of the company’s securities, including all classes of common stock and non-voting securities such as preference shares, savings and investment certificates, should be considered ineligible for index inclusion.
- All of the company’s securities, including all classes of common stock and non-voting securities such as preference shares, savings and investment certificates, should have their investability weight reduced. For example, their investability weights might be multiplied by the ratio of the number of votes conferred by one Index Share to the number of votes conferred by one share of the (possibly non-listed) class with the highest voting rights.

¹ Index Shares are calculated as Shares Outstanding x Min (Free Float Weight, Foreign Ownership Restriction). They therefore represent the shares in the hands of non-restricted shareholders.

² Note that information on non-listed shares may not be readily available in all jurisdictions. Should the application of such a rule be favoured, in the first instance its implementation would be limited to those countries where this information is readily available, particularly the US.

- Only the company's non-voting shares and other non-voting securities should be ineligible for index inclusion. The investability weight of the company's voting securities should be reduced. For example, the investability weight might be multiplied by the ratio of the number of votes conferred by one Index Share to the number of votes conferred by one share of the class (possibly non-listed) with the highest voting rights.
- Only the company's non-voting shares and other non-voting securities should be ineligible for index inclusion. All voting shares should remain at their full investability weight.
- Some other restriction. Please state which.

4. For new index constituents, for what period do you believe that the restrictions from Question 3 should be applied?

- Until such time as the company restructures its securities to meet the voting rights threshold.
- After a set period, for example two or five years. Please state how long.
- After a seasoning period in which the company's management has evidenced its adherence to good governance principles. If so, please state how long the seasoning period should be and how adherence to good governance principles might be evidenced.
- Some other period. Please state which.

5. For existing constituents, when do you believe that the restrictions for Question 3 should be applied?

- Existing constituents should be tested against the new rule at the next index review/reconstitution cut-off/rank date.
- Existing constituents should be tested against the new rule at the next index review/reconstitution cut-off/rank date following a grandfathering period. Please state how long.
- Existing constituents should be grandfathered indefinitely.
- Some other period/condition. Please state which.

6. The desire to impose additional eligibility requirements might differ for different types of indexes. For example, the perceived requirements for FTSE Russell local and domestic indexes might differ from those for global indexes.

To which FTSE Russell indexes do you believe the minimum voting rights criterion should be applied? Please tick all that apply.

- FTSE Russell global indexes including FTSE Global Equity Index Series, Russell Global Index and indexes directly derived from these.
- Russell US indexes.
- FTSE UK Index Series.
- Other local index series, for example FTSE exchange partner indexes where FTSE is the administrator. Please state which.
- FTSE EPRA/NAREIT Global Real Estate indexes.
- FTSE Hong Kong Mandatory Provident Fund indexes.
- Other indexes. Please state which.

- 7. There may be some index series where the application of a minimum voting rights hurdle would be inappropriate or redundant. For example, the FTSE UK Index Series includes only those securities with a premium listing from the UK Listing Authority, and the premium listing in turn requires issuing companies to adhere to a one share, one vote principle. Further, the FTSE UK Index Series sets higher free float hurdles for companies incorporated outside the UK; this might be considered as a proxy for the minimum voting rights that should be afforded to UK shareholders.**

A further example might be afforded by index series for regions where governance standards are accepted to be less developed. Feedback from the recent consultation on the eligibility of N-shares such as Alibaba and Baidu was that these should be included in certain FTSE China indexes from September 2017. Although the US listed securities of these companies place 40.2% and 27.3% respectively of the votes in the hands of index shareholders, the Chinese operating local operating companies to which the listed companies are contractually bound are wholly owned by consortia which include the company founders.

Are there any FTSE Russell indexes where you believe a voting rights eligibility rule should explicitly not apply?

- FTSE UK Index Series (where premium listing and minimum free float rules already apply).
- FTSE China indices (where N-shares will be eligible from September 2017, some of which such as Alibaba and Baidu are structured as Variable Interest Entities; and where some very large constituents, such as some banks, are included at low floats).
- FTSE Russell fundamental indexes including FTSE RAFI.
- FTSE Russell factor based (Smart Beta) indexes.
- Other indexes. Please state which.

8. If your answer to Question 1 was no, please state why.

- There is no need to consider any exclusion rule based on the proportion of voting rights in the hands of non-restricted shareholders or any other criterion. No changes to the existing index eligibility rules are required.
- There are ways other than imposing a threshold on the aggregate voting rights in the hands of non-restricted shareholders that would address the problem better. Please see Question 9.
- The issue is the inclusion of non-voting securities *per se* in FTSE Russell indexes and all securities without voting rights should be excluded.

9. What other ways of dealing with the problem should FTSE Russell consider?

- Non-voting securities of companies that fail to meet the threshold for the minimum percentage of voting rights in the hands of non-restricted shareholders should be eligible for index inclusion provided they embed a sunset provision in which they convert to voting shares after some period. If so, how long should this period be?
- Index securities should be weighted according to the percentage of the company's voting rights that they confer, rather than according to their free floats.
- Some other approach. Please state which.

Appendix – Examples of the percentage of votes conferred by index shares

Company Name	Ticker	Share Classes (Voting Power)	Total Shares	Total Voting Rights	Total Voting % Held by Public
Alibaba	BABA	Common(1); VIE	2,473,927,859	2,473,927,859	40.19%
Alphabet	GOOG	A(1), B(10)	691,748,603	769,155,721	38.64%
Baidu	BIDU	A(1), B(10); VIE	34,687,377	100,398,663	27.28%
Berkshire Hathaway	BRK'A	A(1), B(0.0001)	1,314,270,563	900,260	74.74%
Brown Forman	BF'B	A(1), B(0)	383,900,566	169,051,360	31.93%
CBS	CBS	A(1), B(0)	405,956,688	37,598,604	20.23%
CME Group	CME	A(1), B(1)	339,791,219	339,791,219	99.51%
Comcast	CMCSA	A(0.0599), B(15)	4,742,956,869	425,203,023	66.25%
Constellation Brands	STZ	A(1), B(10), Class 1(0)	194,800,645	404,904,468	41.67%
Discovery Communications	DISCA	A(1), B(10), C(0)	384,572,732	218,894,616	70.41%
Estee Lauder	EL	A(1), B(10),	367,832,334	1,663,487,967	13.08%
Expedia	EXPE	Common(1), B(10)	150,946,989	266,146,980	45.46%
Facebook	FB	A(1), B(10)	2,898,176,948	7,698,725,945	30.27%
Ford	F	Common(1), B(36.8)	3,981,986,307	6,518,490,628	59.64%
Hershey	HSY	Common(1), B(10)	212,689,540	758,267,533	18.32%
Lennar	LEN	A(1), B(10)	234,463,080	516,191,835	57.35%
McCormick & Company	MKC	Common(1), Non Voting(0)	124,678,471	11,451,748	78.47%
Molson-Coors Brewing	TAP	A(1), B(1), Special Class A(2,878,936), Special Class B(15,093,021)	197,307,560	215,279,515	80.06%
News Corp	NWSA	A(0), B(1)	581,811,578	199,630,240	60.56%
Nike	NKE	A(1), B(1)	1,650,766,552	1,650,766,552	79.93%
Ralph Lauren	RL	A(1), B(10)	82,212,629	315,144,113	17.81%
Regeneron Pharmaceuticals	REGN	Common(1), A(10)	106,290,608	123,493,712	63.28%
Scripps Networks Interactive	SNI	Common(1), A(1)	129,708,682	129,708,682	66.14%
Snap inc	SNAP	A(0), B(1), C(10)	1,179,125,792	2,439,980,459	0.00%
TripAdvisor	TRIP	Common(1), B(10)	141,226,959	256,426,950	42.79%
Twenty-First Century Fox	FOXA	A(0), B(1)	1,850,855,467	798,520,953	54.76%
Tyson Foods	TSN	A(1), B(10)	358,202,802	988,299,597	28.11%
Under Armour	UAA	A(1), B(10), C(0)	440,318,477	529,171,024	34.60%
United Parcel Service	UPS	A(10), B(1)	867,763,120	2,478,698,212	27.78%
Universal Health Services	UHS	A(1), B(0.1), C(100)	96,689,924	82,150,770	10.52%
Viacom	VIAB	A(1), B(0)	401,731,773	49,431,379	20.20%

For more information about our indexes, please visit ftserussell.com.

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