

Capital Markets Group: PLC update

November 2017

Forthcoming changes to Conduct of Business Sourcebook concerning access to information issued in connection with a UK IPO

On 26 October, the FCA published three separate papers as part of its wider review of various aspects of the UK's primary markets. PS17/22 makes certain technical Listing Rule changes, for example to LR6 and related technical notes, in substantially the same form as proposed in an earlier consultation paper (CP17/4). FS17/3 highlights the FCA's intention to explore further the current standard and premium listing categories, and in particular the minimum standards applicable on the standard list.

Of more immediate impact, PS 17/23 concludes the FCA's review of access to information in connection with a UK IPO. A series of rule changes are being introduced to the Conduct of Business Sourcebook (COBS) and will apply to the regulated firms advising issuers on an IPO. These changes will come into force on **1 July 2018**.

Key points to note are:-

- From 1 July, an approved prospectus or registration document must have been published **before** any connected research is released in connection with an upcoming IPO. This change is intended to restore the primacy of an approved prospectus, improve the range and quality of information available to investors and facilitate the availability of such information early enough in the process to support more balanced investor education and price discovery.
- Where "unconnected analysts" (ie, not representing a firm engaged in placing or underwriting securities for the issuer) are offered access to the management of an issuer at the same time as connected analysts, connected research may be released one day after publication of the initial prospectus or registration document. Where this does not happen, connected research can only be released a minimum of 7 days afterwards.
- Based on responses received during the consultation, the FCA acknowledges that brokers are unlikely to allow unconnected analysts access to an issuer's management prior to release of a prospectus, so expect the second route to prevail.
- Responses from investment banks to the consultation have suggested the following as likely timing for this phase of an IPO, once the rule changes are introduced: publication of the prospectus or registration document, being the first time the proposed IPO enters the public domain, 7 days before the release of the issuer's intention to float (ITF) announcement and the release of connected research. In the interim, shortly after the publication of the prospectus, the unconnected analyst briefing(s) will take place.

- Under the new rules, syndicate firms representing an issuer are obliged to select a suitable range of unconnected analysts to be given access to the issuer ahead of an IPO. Firms must also retain a written record of the assessment behind each such decision. The FCA will encourage the development of industry guidelines to assist firms in making this judgement.
- The new rules will also require that, where syndicate firms choose (as is anticipated) to provide unconnected and connected analysts with separate access to the issuer's management, the information that each unconnected analyst receives must be the same as that given to connected analysts. Firms will also be required to make and keep a written record of the information shared with both connected and unconnected analysts.
- AIM – the new COBS rules will not apply to IPOs on AIM, or other multi-lateral trading facilities. The statement acknowledges that the potential for smaller cap IPOs to attract the attention of unconnected analysts is unclear. However, firms are invited to consider adopting the same process for an AIM IPO.

Timing – to allow a bedding in period, and to avoid disruption to current or imminent IPOs, the new COBS rules will not come into force until 1 July 2018.

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