

Primary Market Bulletin

Newsletter from the FCA for primary market participants

June 2016 / No. 16

About this edition

Welcome to the 16th edition of Primary Market Bulletin.

As in PMB No 15, we discuss the new Market Abuse Regulation (MAR) which will apply from 3 July 2016. The last bulletin was a special issue devoted to explaining how the new notifications established by MAR would work in practice. This edition focuses on our consultation on proposed amendments to, and deletions of, various Technical Notes that are necessary due to the changes introduced under MAR.

However, we begin this edition, as usual, with general news and information. We also cover the latest changes we are proposing to make to our Knowledge Base.

What's new?

On 26 May 2016 we announced on our [website](#) our approach to closed periods and preliminary results under MAR, as summarised below.

On 6 April 2016, ESMA published its [24th update of Prospectus Directive Q&A](#).

On 17 March 2016, the FCA Board made the instrument [FCA 2016/27 Prospectus Rules Sourcebook \(Omnibus 2 Directive Regulatory Technical Standards\) Instrument 2016](#).

On 18 March 2016, the FCA published [Handbook Notice No. 31](#), which provided feedback on the consultations in the June and December Quarterly Consultation Papers (QCPs) on this matter. The Handbook's Prospectus Rules sourcebook (PR) has been updated to reflect these changes, which took effect from 24 March 2016.

Closed periods and preliminary results under MAR

Closed periods

A new feature of MAR is a prohibition (in Article 19(11)) on dealing in the shares and debt instruments of the issuer (or linked financial instruments) by persons discharging managerial responsibilities (PDMR) during a 'closed period', except in certain specified circumstances.

Note: the similar term 'close period' is also used in the current UK regime. This regime uses 'close period' to specify the period of time before a regular results announcement when the directors of an issuer and PDMRs are not permitted to deal in its shares and other quoted securities.

Preliminary results

Issuers in the UK frequently announce preliminary results ahead of the final year-end results which are published some weeks later. The public announcement of preliminary results, under the current UK regime, ends the relevant close period, and the prohibition on dealing therefore also ends.

We understand there is some confusion in the industry whether issuers that announce preliminary results need to impose closed periods either before the preliminary results, the year-end report, or both. The interpretation between MAR closed periods and preliminary results continues to be discussed at a European level and we will provide further clarification on this point when it is available.

Our supervisory approach

Pending clarification from the European Commission and ESMA, we will continue to take the view that where an issuer announces preliminary results the 'closed period', where dealing is prohibited, is immediately before the preliminary results are announced. Under MAR, the length of the 'closed period' will be 30 days.

This applies only where the preliminary announcement contains all inside information expected to be included in the year-end report.

Consultation feedback and changes to the Knowledge Base

Ongoing guidance review

We are reviewing the feedback received for [PMB No. 13](#) and [PMB No. 14](#), and we intend to respond to it in the next edition of PMB.

UKLA/TN/541.2 – Scope and application of vote holder and issuer notification rules

Following the amendment made to the definition of 'issuer' by the Transparency Directive Amending Directive, we have received feedback suggesting this has changed the scope of the vote holder notification regime, and this regime will now apply to all GDR issuers. The FCA had proposed to amend this Technical Note, but we are still clarifying whether we would expect DTR 5 to apply to GDR issuers. However, given the feedback received, discussions are now taking place at a European level. We will therefore postpone amendment of this Technical Note until we have clarification on this issue.

Proposed changes to our guidance

We are consulting on the following further changes to the Knowledge Base:

- the amendment of 11 existing Technical Notes, and
- the deletion of three existing technical notes

Here, we summarise our proposals.

Technical Notes

Since the publication of CP15/35, in which we set out our proposals to implement MAR (2014/596/EU), we have been reviewing our Knowledge Base and our procedures in order to identify guidance or procedures that might be affected by the implementation of MAR. As a result, we are proposing to amend 11 notes and delete three notes to reflect the changes being introduced by MAR. These relate to issues that will be addressed by MAR and include transactions conducted by persons discharging managerial responsibilities, management of

inside information and share buy-back programmes conducted during a closed period. We list the notes being deleted or amended below.

Many of the changes are amendments to citations and cross references. However, some are more substantive. In particular, we are proposing to delete one paragraph from *UKLA/TN/520.2 – Delaying disclosure/dealing with leaks and rumours*. This paragraph refers to guidance for an issuer to publish interim announcements in relation to inside information. We are proposing to delete this in light of MAR Articles 7 and 17, which will now directly address delays in the disclosure of inside information. It is also in light of the fact that, following the implementation of MAR, ESMA will be publishing guidelines and Regulatory Technical Standards on when disclosure of inside information can be delayed, as well as a non-exhaustive indicative list of legitimate interests. Given the impending guidance from ESMA, DTR references have been deleted in the note. Once ESMA has published these guidelines and Regulatory Technical Standards, we may reconsider whether it is appropriate to consult on additional notes.

Category: Governance and conduct

UKLA/TN/201.1 – Share buy-back programmes (Delete)

UKLA/TN/202.2 – Share buy-backs with mix and match facilities (Amend)

UKLA/TN/203.3 – Compliance with the Listing Principles and Premium Listing Principles (Amend)

Category: Transactions

UKLA/TN/306.3 – Reverse takeovers (Amend)

Category: Periodic financial information

UKLA/TN/502.2 – Preliminary statement of annual results (Amend)

UKLA/TN/505.1 – Close periods (Delete)

UKLA/TN/506.2 – Periodic financial information and inside information (Amend)

Category: Regulatory announcements including Inside Information

UKLA/TN/520.2 – Delaying disclosure/dealing with leaks and rumours (Amend)

UKLA/TN/521.3 – Assessing and handling inside information (Amend)

UKLA/TN/522.2 – Disclosure of 'lock-up' agreements (Amend)

Category: Disclosure of positions held by issuers, investors and management

UKLA/TN/540.2 – Transactions by persons discharging managerial responsibilities and their connected persons (Delete)

Category: Prospectus content

UKLA/TN/628.2 – Significant change statements (Amend)

Category: Sponsors

UKLA/TN/704.3 – The sponsor's role on working capital confirmations (Amend)

UKLA/TN/714.2 – Sponsors: Guidance on the competence requirements set out under LR 8.6.7R(2)(b) (Amend)

We want to hear what you think

Please send your comments on our latest proposals to primarymarketbulletin@fca.org.uk. Alternatively, send them by post to:

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UKLA Department
Financial Conduct Authority
25 The North Colonnade
Canary Wharf
London E14 5HS

Please send us your comments by 10 August 2016.

Equality and diversity

We are confident that our proposals do not give rise to equality and diversity implications, but we would welcome your comments should you have any concerns.

Useful links

To access the guidance referred to in this edition of PMB, see our website:

[PMB No. 16 guidance consultation](#)