

# Primary Market Procedural Note

## Listing securities via final terms

The information in this note is designed to help issuers and practitioners interpret our UK Listing Rules (UKLR), Prospectus Rules: Admission to Trading on a Regulated Market (PRM), Disclosure Guidance and Transparency Rules (DTR), and related legislation. The guidance notes provide answers to the most common queries we receive and represent FCA guidance as defined in section 139A FSMA

### Rules and Guidance

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PRM 1.3.1R(2) - 4; PRM 2.3.9R(2), UKLR 3.1.5G, UKLR 3.2.3R, UKLR 20.2.2AG, UKLR 20.5.12R and UKLR 20.2.7G

### Background and scope of this note

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This note sets out how to apply for admission to the Official List for a security issued under a base prospectus by means of final terms. The FCA offers a streamlined service to enable the listing of securities that are the subject of final terms.

Under this service, the FCA extracts information from the final terms in order to process the application for admission to the Official List. We also liaise with the relevant Recognised Investment Exchange (RIE) to ensure that the securities are admitted simultaneously to listing and trading on the day on which admission has been requested.

The usual system, where a listing hearing must be requested and documents are submitted 2 business days before the hearing, is not followed in these cases. Instead, using the final terms service, issuers or agents acting on the issuer's behalf can get the securities listed by submitting the final terms before 2pm on the business day before listing is to become effective.

This note sets out the following:

- How to list securities that are the subject of final terms;
- How to help avoid situations where securities that are the subject of final terms do not get listed; and
- How to submit final terms for further issuance of securities where the class of securities is already listed.

### **How to apply for listing of securities subject to final terms**

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You can apply for official listing of securities that are the subject of final terms via two channels:

- by email to [Final.Terms@fca.org.uk](mailto:Final.Terms@fca.org.uk); or
- via the Electronic Submission System portal (ESS) using the "IM - Admission of Securities" case type.

A listing application only needs to be made when the class of securities are listed for the first time.

Final terms should be sent to the FCA and any Recognised Investment Exchange (RIE) on which the securities are to be traded when the issuer and its duly authorised officer are certain that these are complete, accurate and the securities are suitable for admission.

In accordance with UKLR 20.5.12R, final terms must be submitted in their definitive form by the issuer (as applicant) or their duly authorised officer to the FCA as soon as possible after they have been agreed and no later than 2pm on the business day before listing is to become effective.

This ensures the greatest possible speed and accurate record keeping.

## **Confirmation of receipt does not guarantee admission**

If received by email, the sender will receive an automated response to confirm receipt of the final terms. However, please note that this automated response does not mean that admission will necessarily be granted.

The issuer is responsible for ensuring that securities that are the subject of the final terms are eligible for admission to listing. For example:

- The initial securities will be in issue at the time and date the listing becomes effective;
- Issuing the securities does not require any additional terms and conditions from those set out in the base prospectus;
- No supplement to the base prospectus is required to list the securities; and
- The final terms document is in its definitive form.

The FCA processes the information disclosed on the final terms on to the Official List. We liaise with the RIE to ensure that the securities are admitted simultaneously to listing and trading on the day on which admission has been requested.

## **Admission to trading**

To comply with the eligibility requirements for admission in UKLR 3.2.3R, securities must be admitted to trading on a regulated market for listed securities<sup>1</sup>. The final terms should also be submitted to a regulated market so they can be admitted to trading. The FCA has procedures in place with regulated markets to ensure that listing and trading take place simultaneously. However, companies must still comply with the rules of the respective organisations concerning the submission of final terms.

## **When are securities admitted to listing**

Securities are considered to be officially listed when the FCA announces this to the market in the form of its Official List Notice, which is released at 8:00am each business day via a Regulatory Information Service (RIS), as per UKLR 20.2.7G.

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<sup>1</sup> There are transitional provisions contained in UKLR TP 13 "Transitional provisions for continuing obligations in relation to admission to trading" for certain securities.

We maintain the Official List on our website, <https://marketsecurities.fca.org.uk/officiallist>. While we make every attempt to keep our website up to date, we strongly recommend that issuers and their agents check the Official List Notice on the relevant date to ensure listing has taken effect. In the event the FCA Official List Notice does not correspond to the website version of the Official List, the FCA's Official List Notice takes precedence.

### **Temporary ISIN codes**

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Please also note that the FCA does not list securities with a temporary International Securities Identification Number (ISIN) code. Therefore when searching for securities on the Official List Notice or our website please do so using only the permanent ISIN code.

### **What are the other documents which can rely on the final terms service?**

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In accordance with UKLR 20.5.12R, final terms must be submitted in their definitive form to the FCA no later than 2pm on the business day before listing is to become effective. We will apply this deadline in a limited number of additional circumstances, rather than issuers requesting a listing hearing, these are:

- a) Draw down prospectuses;
- b) Draw down base prospectuses;
- c) Public sector issuers (referred to in PRM 1.3.1R(2)(a) and (3)); and
- d) Instruments of Islamic finance (referred to in PRM 1.3.1R(2)(b) and (4)).

For documents that fall into paragraphs c) and d) above, issuers must also submit an application for the admission of securities form by the same deadline. <https://www.fca.org.uk/markets/primary-markets/forms>

## **What can go wrong? Examples of circumstances where securities that are the subject of final terms may not be listed the following day**

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Occasionally, it is not possible to list the securities that are the subject on the basis of the final terms provided by the issuer or its advisor. As a result final terms received by the FCA may in certain circumstances need to be queried. Some examples are set out below of where we might query the listing of securities relating to final terms.

Firstly, the securities described in the final terms may not meet the eligibility requirements for the securities to be listed. Reasons include but are not limited to:

- When securities that are the subject of final terms have been submitted before their issue date. UKLR 3.1.5G states that the admission of securities cannot be conditional in any event.
- When securities are not being admitted to trading on a RIE's market for listed securities. For further information, please see UKLR 3.2.3R.

Secondly, when there is insufficient, contradictory or inadequate information to list the final terms. Common examples include but are not limited to:

- When the issuance programme to which they are connected has expired;
- When the related securities programme prospectus has not been approved by the FCA;
- When the final terms state that the securities are not for listing; and
- When there is insufficient information contained in the final terms alone to allow the FCA to list the securities. This information may include ISIN numbers, denominations and maturity dates.

Other reasons why final terms may be challenged could include but are not limited to:

- When the final terms we receive do not refer to the terms and conditions set out in the current base prospectus but instead are issued against older terms and conditions which have not been incorporated by reference into the current base prospectus;

- When a draft prospectus has been submitted to the FCA for approval, the subject of which is a security which is also the subject of final terms. In this situation the final terms should not be submitted; and
- Where a base prospectus has been updated but the final terms refer to the previous base prospectus.

### **What to expect when final terms are queried by the FCA**

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Other than where it is clear that the securities are not for immediate issue (e.g. where the final terms have a future issue date), the FCA will contact the agent or issuer who submitted the final terms to inform them that it is not possible to list the securities on the basis of the final terms provided and will request further specified information by email. When an agent has submitted the final terms and they have subsequently been queried, we would expect the agent to contact the issuer. This communication is vital as the correct payment of tax in relation to the securities may be subject to whether or not the listing has been successful.

It is important to note that we will not take any further action until advised to do so. So, securities that are the subject of final terms initially submitted will remain unlisted until appropriate remedial action has been taken, which would enable us to proceed with listing. If you are in any doubt about the appropriate remedial action that is required for a listing to proceed, please contact us.

### **Key steps that can be taken by the issuer or their agents to ensure a trouble-free listing of securities using final terms**

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Ensure that no conditions or situations described in the section: 'What can go wrong? Examples of circumstances where securities that are the subject of final terms may not be listed the following day' apply to you.

Send the final terms by email to [Final.Terms@fca.org.uk](mailto:Final.Terms@fca.org.uk) with an attached covering note or via the ESS portal. On submission of your email you will receive confirmation of receipt. Check that the securities that have been submitted for admission are announced on the Official

List Notice that is released every business day at 8am via an RIS. To see them select 'Official List Notice' for the headline type.

### **Further issues of existing listed securities and final terms**

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There is no need to make an application to the FCA for official listing when further issues of existing listed securities occur. UKLR 20.2.2A G provides that an application for admission to listing of securities relates to all securities of a class which have been issued, and which may be issued in the future. Issuers will still need to seek admission to trading on a regulated market where further issues of existing listed securities occur.

However, when further issues of existing securities occur via final terms, the final terms must still be filed with the FCA under PRM 2.3.9R(2).

This can be done by submitting the final terms via ESS. An ESS user will need to navigate to the NSM file upload tab and create a case described as "NSM File Upload". The NSM is the "National Storage Mechanism". You should not use the email channel in these instances.