

Primary Market Procedural Note

Substitution of issuer of debt securities

The information in this note is designed to help issuers and practitioners interpret our UK Listing Rules, Prospectus Regulation Rules, Disclosure Guidance and Transparency Rules, 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

UKLR 3, UKLR 21

We are increasingly seeing advisors approach us with regard to the procedural mechanics of replacing an issuer of debt securities on the Official List, through a substitution of an issuer (Substitution). Substitution, for the purposes of this note, is the replacement of an issuer by a different legal entity as obligor of the securities which are the subject of the Substitution. Substitution of an issuer is commonly seen in corporate bond transactions where the issuer is replaced by another group company. Trustee and/or bondholder consent may be required depending on the relevant terms and conditions of the bonds.

It is important early on in the process to consider, and determine, if a new prospectus is required as a result of any Substitution, having regard to the requirements under the Prospectus Regulation. If

required, a draft prospectus and associated documents should be submitted to the FCA for vetting. The issuer and its advisors should also consider the availability of information for investors on the new issuer (particularly if the new Issuer does not have any securities already admitted to the Official List) and the credit profile of the new issuer, noting the examples in UKLR 21.1.2G where we may suspend the listing of securities, including where there is insufficient information in the market regarding a proposed transaction. The issuer may also want to consider whether an announcement about the Substitution is required to meet their obligations under the Market Abuse Regulation (MAR), and the Disclosure Guidance and Transparency Rules sourcebook (DTRs).

Request to make a Substitution

If there is no public offer of debt securities being made, and no admission of debt securities to a regulated market in the UK, a request to make a Substitution should be made to us, in writing and will be considered on a case by case basis. Issuers and their advisers are encouraged to contact us early on in a transaction involving a Substitution, so that we can consider the particular circumstances of the request.

Information to be included in the request to make a Substitution where it has been determined that no new prospectus is required (to be submitted by the Electronic Submission System (ESS)) should include:

- An expected timetable of the Substitution and a brief explanation of the background to the request
- A draft formal request to amend the Official List, and the effective date of such amendment (which cannot be earlier than the effective date of the Substitution and we would expect the request to make no reference to commencement of dealing of the relevant securities
- Details of the current issuer to be substituted
- Confirmation that the listing category of the relevant securities remains the same
- Details of the relevant securities, including the relevant ISINs and principal amount outstanding
- Details of any current guarantee in relation to the relevant securities and whether this is continuing post Substitution

- Confirmation that no public offer is being made of the relevant securities
- Confirmation that no admission of new securities to a regulated market in the UK is taking place
- Confirmation that the Trustee and/or bondholder consent has been obtained, or is not required
- If the request is being made on behalf of the current issuer and the new issuer, rather than by the issuers themselves, confirmation that the relevant authority to act on its behalf has been received
- If the request is being made by the current issuer and the new issuer, rather than on their behalf, confirmation that legal advice has been obtained in relation to the Substitution
- Confirmation that notification will be given to our Issuer Management team once the Substitution has become effective

Additionally, if the new issuer does not have any securities currently listed on the Official List, while an eligibility checklist is not required to be submitted, the following items are to be included in the request in respect of the new issuer:

- Confirmation that it is duly incorporated or otherwise validly established and is operating in conformity with its constitution
- Confirmation that it understands its ongoing disclosure obligations under MAR and the DTRs
- An Issuer Contact Details Form
- Confirmation of the accounting standards under which financial statements are prepared

The indicative turnaround times for a Substitution request will be the same as for a request for written guidance, that is, five business days. There is no fee for a Substitution request.

Request to amend the Official List

Once the request for Substitution has been agreed by us, a formal request to amend the Official List can be made. The amendment to the Official List can only occur once a confirmation has been provided that the Substitution has become effective. In addition, the issuer or its advisors must notify our Issuer Management team

(listingapplications@fca.org.uk) of the Substitution effective date prior to midday at least 3 clear business days before the proposed date of amendment to the Official List is to become effective. A confirmation email to our Issuer Management team is also required once the Substitution has become effective. An example of the shortest possible timetable is as follows:

- **Day one** – prior to noon, a formal request is sent to our Issuer Management team to amend the Official List (which has already been agreed following the process in paragraph 1 above) together with notification of the Substitution effective date
- **Day three** – the Substitution becomes effective and a confirmation email is sent to our Issuer Management team of such Substitution
- **Day four** – the Official List is amended in the morning to reflect the Substitution

It is also the issuer's, or a representative of the issuer's, responsibility to ensure they have informed, and met the requirements of, the relevant Recognised Investment Exchange in respect of the Substitution and amendment on its market.

Note: The amendment to the Official List will take effect at 8 am on the specified amendment effective date. We will publish such amendment on our daily Official List Notice to confirm such amendment has become effective.