FINANCIAL CONDUCT AUTHORITY

DRAFT FOR CONSULTATION

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Primary Market Technical Note

Supplementary prospectuses

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

PRM 5; PRM 10;

A supplementary prospectus (SP or supplement) is required if, during the relevant period, there is a significant new factor, material mistake or material inaccuracy concerning the information in the prospectus (PRM 10.1.1R).

PRM 10.1.4R sets out the period during which an SP may be required. The 'relevant period' begins when the prospectus is approved and ends either with the closure of the offer period, or the

time when trading of the securities on a regulated market begins – whichever occurs later.

There are limited circumstances in which an SP can be used to supplement a base prospectus without the trigger of a significant new factor, material mistake or material inaccuracy; these are explained in PRM 10.1.7R and PRM 10.1.9R:

- PRM 10.1.7R states that an SP may be used to supplement the information in a securities note forming part of a base prospectus, where there is no significant new factor, material mistake or material inaccuracy but only where certain conditions (PRM 10.1.7R(1)-(3)) are met.
- PRM 10.1.9R allows for an SP to be used to change the terms and conditions and/or the form of final terms of the securities that may be issued under a base prospectus, but only in the circumstances allowed by PRM 10.1.9R(1) or (2).

We believe that PRM 10 requires us to consider whether the matter presented in a supplementary prospectus is indeed a significant new factor, material mistake or material inaccuracy capable of affecting the assessment of the securities (unless the exceptions provided by PRM 10.1.7R and/or PRM 10.1.9R are met), and also whether the matter relates to the information included in the prospectus.

We will challenge the use of a supplementary prospectus when we are aware that the matter presented is not factually accurate or where the matter presented cannot be credibly considered to be a significant new factor (in the latter case, unless the circumstances for a base prospectus in PRM 10.1.7R or PRM 10.1.9R apply). We will also challenge the contents of an SP where the issuer attempts to utilise the exceptions provided by PRM 10.1.7R and/or PRM 10.1.9R where we believe the requirements of these rules are not being met.

A prospectus must relate to a specific offer and/or admission of securities (or for a base prospectus, specific offers/admissions). An SP cannot be used to launch a new offer or create a new admission event

unrelated to the one anticipated in the original prospectus (unless PRM 10.1.9R is applied to a base prospectus).

As outlined above, under PRM 10.1.9R an SP can be used to change the terms and conditions and/or the form of final terms in a base prospectus, but only where:

1) the changes result in the securities remaining ~~fungible with~~manifestly the same as the securities that could have been issued under the prospectus immediately prior to the changes; or

2) the changes result in the securities not ~~being fungible~~remaining manifestly the same but where (a) the new securities are not asset backed securities or securities linked to an underlying asset; and (b) the SP supplements the prospectus with the minimum information required by the relevant securities note annexes set out in PRM App 2.

If PRM 10.1.9R is not utilised via an SP, for a base prospectus this means an issuer can still do numerous different offers/admissions using one prospectus, but the Terms and Conditions (T&Cs) relating to the securities subject to the offer/admission must have been included in the relevant base prospectus. Where PRM 10.1.9R does not apply, we will allow some limited changes to a prospectus to be made by an SP, but only where we are satisfied that it still clearly relates to the matter described in the prospectus that was previously approved.

Regulation 48 of The Public Offers and Admissions to Trading Regulations 2024 (POATR) provides that where a prospectus has been approved by the FCA in accordance with Part 6 of FSMA 2000 and the Prospectus Regulation before 19 January 2026, the POATR do not affect the law applicable in relation to any offer of transferable securities to the public or request for the admission of transferable securities to trading on a regulated market which (in either case) is made in reliance on that prospectus, together with any SP, during the period for which it is valid under article 12 of the Prospectus Regulation. PRM TP 1(3)R provides that the Prospectus Regulation Rules sourcebook (PRR) (as it applied immediately before 19 January 2026) shall continue to apply to any SP approved under the Prospectus Regulation on or after 19 January 2026 which relates to a prospectus which was approved under the Prospectus Regulation before 19 January 2026, until the earlier of: (i) the end of its validity under article 12 of the Prospectus Regulation; or (ii) 19 January 2027. As a

result of these saving and transitional provisions, we would not permit the use of an SP prepared under the PRMs to update a prospectus approved under the Prospectus Regulation before 19 January 2026.

We have set out below how this may apply in certain common scenarios.

Examples

Example 1

Amendments relating to drafting

These types of amendments may occur:

- when a supplement is issued solely to clarify the drafting of the original prospectus;
- when a supplement is issued for appropriate uses but includes general drafting changes; or
- when a supplement is issued potentially relating to a significant new factor but the drafting is unclear about why the new matter is relevant to a security holder.

PRM 10.1.7R allows for the drafting of securities note information to be clarified via an SP to a base prospectus. Otherwise, it is not appropriate to publish a supplement simply to clarify or revise drafting, nor should drafting changes be made as part of a genuine supplement. Furthermore, the new matter in the supplement should be relevant for a security holder and fall within PRM 10. We would not approve a supplement where neither materiality nor relevance to the investor can be established.

Example 2

Amendments to terms and conditions

~~As set out above, PRM 10.1.9R allows for an SP to be used to change the terms and conditions and/or the form of final terms of the securities that may be issued, but only where the original document is a base prospectus and only where the circumstances~~

~~set out in PRM 10.1.9R(1) or (2) apply. Otherwise, for all other prospectuses a~~Other than as set out below, an SP should relate to the securities for which the prospectus was originally drafted, and ~~.~~ it~~It~~ is not appropriate to:

- add entirely new securities to a prospectus via an SP,
- make a new offer, nor
- change the terms and conditions of the securities

This is because the original prospectus will have been drafted for a specific offer (or offer(s) for base prospectuses) and/or admission event(s) (and should contain all necessary information). Fundamental to the description of a specific offer is what security is being offered.

Issuers who wish to use an existing published single prospectus to make a subsequent offer or admission of additional securities without the need to publish a new prospectus should consider whether the published prospectus contains the information required by the PRMs in relation to the second event. The new prospectus could incorporate by reference information from a previous prospectus in accordance with PRM 5.

Where the original document is a base prospectus, PRM 10.1.9R allows for an SP to be used to change the terms and conditions and/or the form of final terms of the securities that may be issued, but only where the circumstances set out in PRM 10.1.9R(1) or (2) apply.

There are~~, however,~~ certain circumstances where we accept amendments to the terms and conditions in both base prospectuses and single prospectuses ~~(unlike the circumstances set out for base prospectuses in PRM 10.1.9R)~~; where following the amendment or change to the T&Cs, the securities are manifestly the same securities.

In assessing whether a security is manifestly the same (whether for purposes of PRM 10.1.9R or otherwise), we would take into account factors such as whether the change is a response to external events, nature of the security, economic impact of the proposed changes, and whether the proposed changes are purely technical.

When a fundamentally new security is being created, a new prospectus will have to be produced (unless the exceptions for a base prospectus in PRM 10.1.9R apply).

Example 3

Amendments relating to events

- A supplement may be produced to describe external events, such as a factory burning down, etc. Informing investors of such events, if material, is what the SP regime envisages. To determine whether ancillary changes can be made to the terms of an offer/admission in this circumstance, issuers should consider the examples set out in this note.
- An issuer may make certain changes to a transaction and in some circumstances it would be legitimate to amend the terms of the original offer or admission, as long as the new proposals clearly relate to the transaction described in the original document.

  For example, an issuer may want to increase the number of shares to be admitted for the acquisition of a target via a supplementary prospectus, as the original prospectus clearly related to the admission of shares in connection with the takeover of that target.
- A supplement may be required for events to inform investors of a material new factor, etc, but it would not be appropriate to amend the terms of the original offer/admission without a new prospectus being produced.

  For example, if the issuer sought to buy an unrelated entity, it would not be possible to amend the number of shares to be admitted to account for shares to be issued for that separate acquisition. This is because the change would be for a transaction outside the one anticipated in the original prospectus

(similar to 'amendments to terms and conditions' above). This does not preclude the issuer from issuing an SP on this matter to update the information in the original prospectus; indeed it may be required to do so under the PRMs.

Example 4

Amendments relating to the offer period or the offer amount

A supplement may be issued to amend the period or amount of the original offer and/or amend the number of shares to be admitted. Where an issuer seeks to increase the size and/or extend the offer period (not exceeding 12 months from the date of the original document), this could generally be done via an SP.

For example, issuers of investment fund securities or convertible securities may wish to amend the total number to be issued (up or down). It is important that the changes relate to the same securities as described in the original prospectus and that the original prospectus remains valid. So:

- an offer can be extended with an SP if the original offer had not yet closed;
- it is possible to add a new regulated market via an SP if the original document is still 'live'. For example, where an offer has not closed and an admission may still take place; and
- it may be possible to decrease an offer; however, whether this amounts to a fundamental change should be considered.

When assessing whether an offer/admission can be amended through an SP, we will consider whether the fundamental premise of the original document still stands. That is whether the SP relates to a matter in the original prospectus. For example, if the use of proceeds for an equity issue changes significantly as a

result of the amendment, a new prospectus rather than an SP is likely to be required.

PRM 10 – Timing of supplementary prospectuses

PRM 10.1.1R does not provide an express time limit for the submission of draft supplementary prospectuses to the FCA for approval, but it requires every significant new factor, material mistake or material inaccuracy which has arisen or is noted to be mentioned in a supplement to the prospectus without undue delay.

Furthermore, even though no express time limit is stipulated, the failure to produce a supplementary prospectus in a timely manner may expose an issuer to the compensation provisions of Regulation 30 of the POATR in relation to any loss suffered as a result of such a failure.

There are two additional points worth noting. Firstly, we consider it to be best practice in offer situations for the offer to be suspended between the trigger event and the publication of a supplementary prospectus in certain circumstances e.g. where the offer is actively marketed or where securities are allotted immediately such that any investors that completed their purchase before the supplementary prospectus was published would not benefit from the withdrawal rights. This ensures investors are not unconditionally allotted shares based on incomplete disclosure. Secondly, the FCA recognises the importance of publishing supplementary prospectuses as soon as possible and endeavours to fast track the approval process to facilitate early publication.