

Primary Market Technical Note

Level of disclosure for securities subject to conversion or write-down powers

The information in this note is designed to help issuers and practitioners interpret our 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.

“Bail-in powers”, allow regulators to cancel, write-down or convert all or part of the liabilities owed by failing financial institutions to creditors into shares.

Where a prospectus relates to securities which may be subject to bail-in powers derived from the Bank Resolution and Recovery Directive (Directive 2014/59/EU) (including under the Banking Act 2009), issuers should consider whether additional disclosure regarding the possibility of conversion or write-down by a regulator (“bail-in”) should be included in the prospectus.

Where the issuer considers the possibility of bail-in to be material, taking into account the probability of bail-in and the possible impact on investors, this should be reflected in the risk factors and summary of a prospectus.

The risk factors should, at a minimum, alert prospective investors to the possibility that, in the event that write-down or conversion powers are exercised by a regulator:

- (a) the amount outstanding may be reduced, including to zero;
- (b) the security may be converted into ordinary shares or other instruments of ownership;
- (c) the terms may be varied (e.g. the variation of maturity of a debt instrument).

In this regard, such risk factor should also alert prospective investors to the fact that financial public support should only be used as a last resort after having assessed and exploited, to the maximum extent practicable, the resolution tools, including the bail-in tool.