

The Professional Securities Market

Expert knowledge means success

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Note: This publication has not been updated since it was last published. Some of the hyperlinks may have changed and may need updating. In addition, some of the information in this publication may be out of date.

Introduction

The Professional Securities Market (PSM) was launched in 2005 to enable companies to raise capital through the issue of specialist securities, such as debt, convertibles and depositary receipts to professional or institutional investors.

The key catalyst for the launch of the PSM was the introduction of the European Prospectus Directive (PD) in 2005. The PD set out the initial disclosure obligations for issuers of securities that are offered to the public or admitted to trading on a regulated market in the European Union (EU). Concerns regarding the cost of following the PD were expressed: particularly with regard to non-EU issuers of debt securities and depositary receipts that are denominated below €50,000.

The creation of the PSM has allowed the London Stock Exchange (LSE) to maintain its supreme position as a listing venue while complying with the new regulations. Companies can now choose to raise capital through the PSM without being restricted in the type or value of securities they issue, and without the additional cost of following the retail regime outlined in the PD.

The implementation of the Transparency Directive in January 2007 has also lent support to issuers on the PSM by allowing issuers to use their own domestic accounting standards instead of having to report historical financial information to IFRS or an EU approved equivalent standard as required by the PD retail regime.

It's easy to see why the PSM would be popular: issuers benefit from a flexible and straightforward approach to regulatory requirements, whilst institutional investors gain the assurance of investing in listed securities on a market regulated by the LSE.

What is the PSM?

The Professional Securities Market is a non-ISD regulated market operated by the Exchange, which provides a platform for the listing of non-equity securities (debt and depositary receipts) on production of Listing Particulars, as opposed to a full PD compliant prospectus.

Source: London Stock Exchange

New Regimes for Issuers

The Prospectus Directive PD introduced two regimes (a retail regime and a wholesale regime) that should be followed for the production and publication of a prospectus, where the securities concerned are to be offered to the public and/or admitted to trading on a regulated market.

The appropriate regime is determined by reference to the type of security and its unit value, or its denomination. (This is a significant change from the previous regulations where a retail offer was classified as being an offer to the general public and a wholesale offer was classified as being an offer to professional investors.

Key differences between the retail and wholesale regimes include:

- the detail level of disclosure information in the prospectus; and
- the preparation of financial information.

Retail regime

Issuers of debt securities and depositary receipts that are denominated below €50,000 (or the equivalent amount in another currency) must follow the requirements of the retail regime.

A retail offer requires a more detailed information disclosure in the prospectus than a wholesale offer.

Accounting standards

Under the retail regime an issuer is required to prepare its financial information to International Financial Reporting Standards (IFRS) or an equivalent standard, for any financial year starting on or after 1 January 2007. This applies to all issuers of convertible securities required to provide disclosures aligned with those of equity issuers, irrespective of denomination.

Issuers from outside the EU who are required to follow the retail regime could find this a prohibitively expensive exercise if their accounting standards are not deemed to be equivalent to IFRS.



Updated Admission and Disclosure Standards - 2008

On 17 September 2008 the London Stock Exchange (LSE) issued a notice outlining changes to its Admission and Disclosure Standards (the Standards) which will be effective from 1 October 2008. The changes can be viewed at:

www.londonstockexchange.com/NR/rdonlyres/8B0A77C0-2FAF-4B36-9C03-7FC33E4902B4/0/Attachment1.pdf

The Standards set out rules and responsibilities in relation to a company's admission to trading and continuing disclosure obligations for companies seeking admission, or already admitted, to trading on LSE's markets (other than AIM).

The changes made by the notice include:

New definitions of:

- Disclosure Rules and Transparency Rules;
- Free Float; and
- Market Abuse Directive.

A brochure containing the revised Standards, is available on the Exchange's website at: <http://www.londonstockexchange.com/mainmarket/usefuldocuments>

Wholesale regime

Issuers of debt securities and depositary receipts that are denominated at or above €50,000 (or the equivalent amount in another currency) must follow the requirements of the wholesale regime.

A wholesale offer requires a less detailed information disclosure in the prospectus than a retail offer.

Accounting standards

Under the wholesale regime an issuer is not required to prepare financial information to IFRS: local accounting standards are acceptable. Where local accounting standards are used, the issuer is required to provide a description of the key differences between the standards used and IFRS.

Convertible and exchangeable securities

Issuers of debt securities that are convertible or exchangeable into equity securities, which as a class are already admitted to trading on a regulated market also have to follow the retail or wholesale requirements outlined above - as appropriate to the denomination of the securities – in addition to any disclosure requirements generally imposed on equity issuers.

The Third Option: The Professional Securities Market

In response to the aforementioned concerns regarding the cost to non-EU issuers of complying with the accounting standards of the retail regime, the London Stock Exchange and the Financial Services Authority (FSA) introduced a “third option” for issuers listing in London, which enables them to follow a wholesale regime irrespective of the type or denomination of security.

Since 1 July 2005, issuers listing debt, convertibles or depositary receipts in London have been able to apply for admission to the Professional Securities Market (in addition to the regulated Main Market) which is operated and regulated by the LSE.

The PD and TD directives both apply to securities that are admitted to regulated markets within the EU. However, the Professional Securities Market is not defined as a regulated market in the directives. This affords the FSA some flexibility in the implementation of the directives.

The benefits

By listing on the Professional Securities Market issuers are able to admit any type of debt, security or depositary receipt (including those carrying a right to convert or acquire equity, of any denomination) and follow a wholesale regime, without the requirement for additional equity disclosure for convertibles. Companies wanting to raise capital, without being restricted in the type or value of securities they issue, can therefore do so without the additional cost of following the more detailed requirements of the retail regime introduced by the PD, or an equity regime.

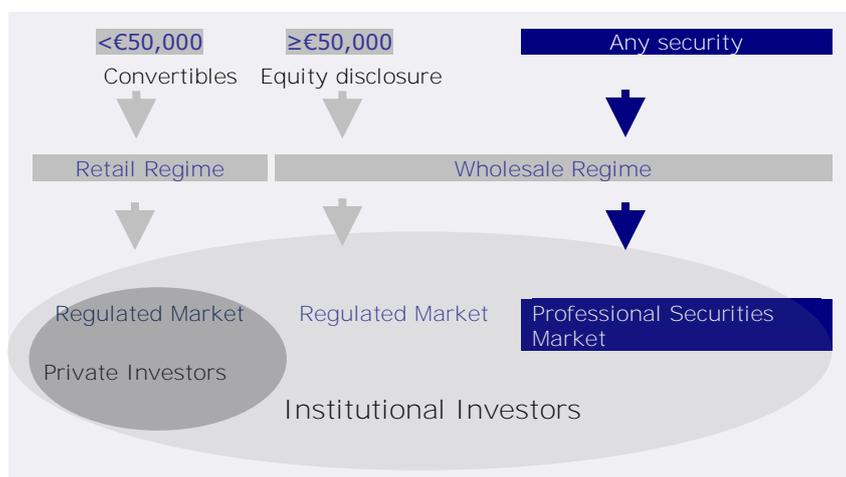
In addition, issuers may not be required to report historical financial information to IFRS or an EU approved equivalent standard either in listing documents or as a continuing obligation requirement, as the FSA allow these issuers to use their domestic accounting standards following the implementation of TD in January 2007. This is an important financial consideration for non-EU issuers.

A company already listed and admitted to trading on the Main Market can move to the Professional Securities Market fee free, without the burden of further listing documentation and without losing their status as an Officially Listed company. They will also be well placed to comply with the PD and TD directives in the future.

Eurobonds – HMRC position

HM Revenue and Customs have stated that Eurobond securities issued by a company and carrying a right to interest, which are admitted to listing by the UK Listing Authority and are admitted to trading on the Professional Securities Market, meet the definition of a “quoted Eurobond”. They are therefore able to pay interest gross.

This applies to new issues on the Professional Securities Market as well as to existing Eurobond securities that transfer from the Main Market.



Institutional Investors

Institutional investors should be satisfied by the LSE regulation of the PSM:

- The listing particulars of potential issuers will have been approved by the UK Listing Authority before being admitted to listing;
- The disclosure obligations for listed companies will apply to the Professional Securities Market (including important regulatory information, such as annual reports and other ongoing disclosures) with the exception of the requirement to report financial information to IFRS;
- The PSM is operated within the scope of the LSE's status as a Recognised Investment Exchange ensuring high regulatory standards.

The London Stock Exchange has examined the statutory and regulatory restrictions on investment by UK institutions and determined that there are no material restrictions imposed on UK institutional investors trading on the Professional Securities Market, over and above those applied to regulated markets.

Further Information

Stikeman Elliott is one of Canada's leading business law firms. They have offices in Toronto, Montreal, Ottawa, Calgary and Vancouver as well as in London, New York and Sydney. They have a very useful publication called: *UK Listing Choices for Overseas Companies*, available from: www.stikeman.com/en/pdf/UK_Listing_Choices.pdf

The LSE provide several documents and publications for download = click on the links below:

- [Admission and disclosure standards](#)
- [Guide to Listing Depositary Receipts](#)
- [Guide to Continuing Obligations for Depositary Receipt Issuers](#)
- [Listing DRs on the Professional Securities Market](#)
- [Overview of the Professional Securities Market](#)
- [Fees for issuers](#)

This publication is for general interest - it is always essential to take advice on specific issues. We believe that the facts are correct as at the date of publication, but there may be certain errors and omissions for which we cannot be responsible.

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Publication issued or updated on: 24 January 2012

Ref: 643

