



Quoted Companies Alliance

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Friday 29 September 2023

Dear FCA colleagues,

**FCA Engagement Paper 1 - Admission to trading on a regulated market**

We welcome the opportunity to respond to your Engagement Paper on admission to trading on a regulated market.

The Quoted Companies Alliance *Legal Expert Group* and *Primary Markets Expert Group* have examined the proposals and advised on this response from the viewpoint of small and mid-sized quoted companies. A list of Expert Group members can be found in Appendix A.

Below we provide our detailed observations on Engagement Paper 1. However, as an overarching point (and as a response to the request for feedback at 7a) of this Engagement Paper, we believe that the opportunity to implement a more profound overhaul of the prospectus regime is likely to be missed if the FCA takes the existing prospectus model as a starting point for reform and merely seeks to make limited changes to it.

We believe the proposed changes within this Engagement Paper are only minor and will not result in a significant change to the status quo. For many companies in the small to mid-sized quoted sector, the prospectus is associated with duplication of work and text and results in a disproportionate investment of time and expense. We believe that this has been a significant contributory factor in the decline of the public equity markets in the UK and we urge the FCA to undertake a more fundamental evaluation of the purpose and format of the prospectus, instead of implementing small changes to it.

If you would like to discuss our response in more detail, please do not hesitate to contact us.

Yours sincerely,

A handwritten signature in blue ink that reads "James Ashton".

James Ashton  
Chief Executive

The Quoted Companies Alliance champions the UK's community of 1000+ small and mid-sized publicly traded businesses and the firms that advise them.

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## 1. The scope of exceptions to prospectus requirements

Regarding the scope of exceptions to prospectus requirements, we have the following comments to raise:

- For takeovers, we are supportive of providing offeree shareholders with additional “relevant information” in line with that required under the EU exemption document regime. However, for many years the Takeover Code was the primary rule-book for share-for-share offers, and we believe that this is the natural place to legislate for this additional information.

Rather than simply adopt the exemption document requirements, we would recommend that the FCA considers what information offeree shareholders require. The additional information requirements could then either be incorporated directly into the Takeover Code or be added as an appendix. This approach has the benefit of simplicity in that all information requirements will appear in a single source document. The Takeover Panel would oversee the process and we believe that it would be duplicative to add a further requirement for FCA approval.

- For transfers between markets, we agree that current requirements remain appropriate.
- In relation to the scope of transferable securities, we consider that the current exemptions also remain appropriate.

## 2. The required contents of a prospectus

In relation to the required contents of a prospectus, we have the following comments to raise:

### The summary

We do not believe that there is any justification for the summary to remain in its current stand-alone form. While we do agree that a summary is required in order to focus on key aspects of the issuer and the offer, particularly for those readers who do not have the time or inclination to read the full prospectus, we believe that the extant summary is duplicative and burdensome for companies to produce.

The prescriptive nature of the rules means that companies and their advisers place undue emphasis on adhering to the prescribed format, content and length requirements, instead of focusing on what information is most important and how best to communicate it in a fair and balanced way.

We believe that the summary is an area where a less prescriptive principles-based approach will work best. Such an approach recognises that the profile and emphasis of the narrative in the summary will vary from company to company depending on the nature and maturity of the business and the purpose for which funding is being sought.

Ultimately, the purpose of the summary should be to provide a sign-post to the key information contained in the prospectus. Rather than operate as a stand-alone “mini prospectus”, the summary should contain cross references to relevant sections within the main body of the prospectus and incorporation of relevant external information by reference where appropriate. This will also provide an opportunity to significantly

reduce the length of the summary and will, in all likelihood, make the current arbitrary restriction on length of the summary redundant.

The reforms to the Listing Rules, proposed in the Primary Markets Effectiveness Review, will also impact the summary and favour a more flexible narrative approach. For example, if an issuer wishes to take advantage of the option to issue a prospectus with a qualified working capital statement, a considerable amount of explanation may be required. That explanation may be incapable of being adequately summarised and, at best, the summary could outline the issues and cross-reference the relevant section of the prospectus in which the substantive text appears.

#### Changes to the financial information requirements

In terms of changes to the financial information requirements in the prospectus, we do not see any material advantage to the addition of a requirement to include quarter-end financial information. Such a requirement would be unduly burdensome and would likely lead to short-termism from investors. We think that the provision of information on a six-month basis is the correct approach.

#### Incorporation by reference

We are doubtful as to whether it is necessary to mandate incorporation by reference. Companies may view certain information as being sufficiently important to justify it being reproduced or summarised in the prospectus itself, regardless of whether incorporation by reference is an option open to them.

We would encourage the FCA to consider extending the range of information sources that can be incorporated by reference (for example, to permit the inclusion of information which can be openly accessed without cost from Companies House and from websites operated by regulatory bodies including announcements made via an RIS) and generally to consider providing greater flexibility for the inclusion of links to public data and information uploaded to the company's website (as is the case with offer documents under the Takeover Code).

In addition, overseas companies should be permitted to incorporate different sources of information that are appropriate to their country of incorporation and other listing venue if relevant (and where these have been filed in accordance with another regulator's requirement) such as the SEDAR system used in Canada.

#### ESG disclosures

It is our view that maintaining the current requirements is the correct response and would ensure flexibility for companies. However, we believe the FCA should issue additional guidance on potential areas which companies may want to address in the prospectus. We also believe it will be important for the FCA to consider ESG disclosures in the context of Engagement Paper 3 on protected forward-looking statements.

### **3. The format of the prospectus**

Regarding the format of the prospectus, we have the following comments to raise:

Overall, prospectus requirements in relation to format are overly prescriptive, particularly in the summary section and the operating and financial review. We believe that greater flexibility should be permitted here within the overriding requirement to provide all relevant information.

Notwithstanding, we believe that a prescriptive approach could usefully be adopted for the 'additional information' section of the prospectus. Currently, in the absence of prescription, information that could usefully be collated in one section of the document is often spread across the prospectus and becomes difficult to locate.

The FCA could consider an approach similar to that taken by Aquis for admission documents. The Aquis admission document presents the additional information in a tabular format with the relevant regulation/requirement in one column and a text box in the next column where that regulation/requirement is addressed. This is a similar approach to that adopted in Australia and we believe its adoption by the FCA would save time and effort when preparing this section of the prospectus as well as making the prospectus more user-friendly, particularly bearing in mind the desire for more retail involvement in IPOs.

To summarise, our approach here favours greater flexibility for the front-end of the prospectus and greater prescription in format for the back end.

#### Growth prospectus

We broadly agree with the proposal to dispense with the growth prospectus. We believe that the growth company prospectus concept has been largely unsuccessful as it does not provide sufficient alleviations to make a tangible difference and fails to render the time and cost of preparation proportionate to the size and status of the issuer.

#### Voluntary prospectus

In general, we are not aware of this document being commonly used. However, if it is used, we see value in the FCA allowing the flexibility for companies to use it if they wish. However, we are concerned by the concept of having an unapproved prospectus as less sophisticated readers might not appreciate what this means in practice.

#### Universal Registration Documents

We are in agreement with the proposal to remove this document which, in our experience, is rarely used in the United Kingdom.

### **4. Changes to the rules and rights associated with a prospectus**

#### Who is responsible for the prospectus?

We agree with the suggested approach of maintaining the status quo in terms of who is responsible for the different elements of the prospectus.

#### Shortening the period that an IPO prospectus is available to retail investors

We believe that it is appropriate to reduce the time a prospectus is available to the public from six days to three days and favour any approach which encourages issuers to extend offers to retail investors.

#### The period of validity for a prospectus

We believe the period of validity for a prospectus should remain at 12 months. In this regard, we believe the ability to cross-reference information and incorporate information by reference (see our observations above) will facilitate updating the prospectus and result in savings in costs and preparation time.

*Changes to the process of approval and validation of a prospectus*

We believe that the vetting process is a mixed blessing for issuers. On the one hand, it provides regulatory oversight and enables the consistency of message throughout the prospectus to be checked. On the other hand, it results in a “stop/start” process and adds to the time and cost for companies to list. If it is to be retained, then it is vital that sufficient resources are in place at the FCA to ensure that the prospectus can be obtained promptly. The speed of response is central to the competitiveness of our public equity markets and, as mentioned above, time and cost to market can be a considerable disincentive to companies which might otherwise consider a listing in the UK.

Another area of concern relates to inconsistencies, observed by QCA members, in the approach taken by the FCA with individual case handlers responding differently to similar issues and similar information across one or more prospectuses. In addition, QCA members have also noted instances where the vetting process has raised issues which go to eligibility for listing at a late stage.

We would urge the FCA to consider adopting a high-level assessment of issues raised by the prospectus at an early stage and to highlight any potential “red flags” at that time. To facilitate this the FCA could issue guidance on the key points that they evaluate when making a final assessment of eligibility for listing. This would inform the process of building the prospectus and avoid the time and expense of a “false start”.

**Appendix A**

**The Quoted Companies Alliance *Legal Expert Group***

Mark Taylor (Chair)	Dorsey & Whitney (Europe) LLP
Stephen Hamilton (Deputy Chair)	Mills & Reeve LLP
Paul Airley	Fladgate LLP
Danette Antao	Hogan Lovells International LLP
Paul Arathoon	Charles Russell Speechlys LLP
Kate Badr	CMS
Naomi Bellingham	Practical Law Company Limited
Ross Bryson	Mishcon De Reya
Caroline Chambers	Simmons & Simmons LLP
Philippa Chatterton	CMS
Paul Cliff	Gateley
Matt Cohen	Stifel
Jonathan Deverill	DAC Beachcroft LLP
Sarah Dick	Stifel
Tunji Emanuel	LexisNexis
Kate Francis	Dorsey & Whitney (Europe) LLP
Claudia Gizejewski	LexisNexis
Sarah Hassan	Practical Law Company Limited
David Hicks	Simmons & Simmons LLP
Kate Higgins	Mishcon De Reya
Nichols Jennings	Locke Lord LLP
Martin Kay	Blake Morgan
Jonathan King	Osborne Clarke
Jennifer Lovesy	KPMG
Nicholas McVeigh	Mishcon De Reya
Catherine Moss	Shakespeare Martineau LLP
Hilary Owens Gray	Practical Law Company Limited
Kieran Rayani	Stifel
Jaspal Sekhon	Hill Dickinson LLP
Patrick Sarch	Hogan Lovells LLP
Gary Thorpe	QCA Director
Robert Wieder	Faegre Drinker LLP
Sarah Wild	Practical Law Company Limited
John Young	Kingsley Napley LLP

**The Quoted Companies Alliance *Primary Market Expert Group***

Samantha Harrison (Chair)	Grant Thornton UK LLP
Azhic Basirov (Deputy Chair)	Global Alliance Partners Financial Limited
Colin Aaronson	Grant Thornton UK LLP
Stuart Andrews	Zeus Capital
Mark Brady	Spark Advisory Partners Limited
Andrew Buchanan	Peel Hunt LLP
David Coffman	Novum Securities Limited
Richard Crawley	Liberum Capital Ltd
Dru Danford	Liberum Capital Ltd
David Foreman	Zeus Capital
Chris Hardie	W.H. Ireland Group PLC
Stephen Keys	Cenkos Securities PLC
Nick McCarthy	Shoosmiths LLP
Katy Mitchell	W.H. Ireland PLC
Hayley Mullens	Radnor Capital Partners Limited
Nick Naylor	Allenby Capital
Jeremy Osler	Cenkos Securities PLC
Niall Pearson	Hybridan LLP
Mark Percy	Shore Capital Group Ltd
Oliver Pilkington	Shoosmiths LLP
George Sellar	Peel Hunt LLP
James Spinney	Strand Hanson
Stewart Wallace	Stifel