

LISTED ISSUERS TO PUBLISH INFORMATION ON RIGHTS ATTACHING TO SECURITIES

This is a reminder about changes to the FCA's Listing Rules that take effect on Monday 27 April 2020 and which require listed companies to maintain publicly available information in relation to the rights attached to their listed securities in order that investors can access such information. Listed companies will need to consider whether any action is required by them to satisfy these new requirements.

These requirements will apply to all issuers with securities admitted to the FCA's Official List and so will capture both premium and standard listed issuers of both shares and debt securities.

In the FCA's words this new requirement *"is not intended to require listed issuers to produce or maintain a consolidated version of all information related to the rights and obligations attached to all issued securities, as this would be an onerous requirement. Issuers should not need to produce anything new if the information is available in other sources. It is intended to require all relevant documents to be placed on the NSM, where an investor can piece together information from those documents."*

Whilst this briefing focusses specifically on the implications for premium listed issuers, the requirements also apply to standard listed issuers of both shares, debt and other types of listed securities.

For premium listed companies, the relevant amendments are set out in new Listing Rules 9.2.6E - 9.2.6H (Disclosure of rights attached to equity shares).

Issuers with other types of listed securities should refer to the FCA's [Listing Rules \(Disclosure of Rights of Securities\) Instrument 2020](#) for relevant amendments to those Chapters of the Listing Rules applicable to them. By way of example, amended Listing Rules 14.3 (Continuing obligations) and 17.3 (Requirements with continuing application) respectively impose the same requirements on standard listed share and debt issuers.

New Listing Rule 9.2.6ER(1) requires a premium listed company to forward to the FCA for publication a copy of one or more of the following:

- the approved prospectus or listing particulars that was published in relation to the issuance of its listed equity shares;

Key issues

- New regulatory requirements for issuers with securities admitted to the FCA's Official List come into force on 27 April 2020
- Changes to the Listing Rules will require issuers to make publicly available information about the rights attached to their listed securities – this information must be uploaded to the National Storage Mechanism
- Issuers should consider whether they need to take any action on 27 April to comply with these new requirements

- the relevant agreement or document setting out the terms and conditions on which its listed equity shares were issued (this might be satisfied by uploading the issuer's articles of association - see the box on page 3); or
- a document describing (i) the rights attached to its listed equity shares; (ii) limitations on such rights; and (iii) the procedure for the exercise of such rights. This document must be prepared in accordance with the disclosure requirements of the relevant Annex of the Prospectus Regulation that would have applied had the listed company been required to produce a prospectus for those listed equity shares.

The documents in LR 9.2.6ER must be forwarded to the FCA for publication by uploading them to the [national storage mechanism](#) (NSM).

Changes to previously published information

There is an obligation, where the information in relation to the rights attached to an issuer's securities set out in a document previously uploaded to the NSM is no longer accurate, for the issuer to upload to the NSM either a new document (in one of the formats prescribed above) or a document describing or setting out the changes which have occurred in relation to the rights attached to its securities (LR 9.2.6R(2)).

Do I need to take any action on 27 April 2020?

An issuer is exempt from LR 9.2.6ER where it has previously forwarded to the FCA for publication, or otherwise filed with the FCA, a document specified in LR 9.2.6ER(1) (for example, an approved prospectus in relation to the issuance of its equity shares) (LR 9.2.6HR(1)).

This exemption only applies where the information relating to the rights attached to the securities previously forwarded or filed with the FCA is still accurate or, where this is not the case, the issuer has forwarded or otherwise filed with the FCA, updated information. This may be either in the form of a new document (in one of the formats prescribed by LR 9.2.6ER(1)) or a document describing or setting out the changes to the rights attached to the securities (LR 9.2.6HR (2)).

In order for the exemption to apply, any documents previously forwarded to the FCA for publication, or otherwise filed with the FCA (including any updated information) must either have been forwarded for publication on the FCA's document viewing facility or by uploading them to the NSM.

Refer to the box on page 3 to determine whether you may be required to take any action.

Where can I find further information?

The full text of the changes, which were consulted on in December 2019, can be found in the FCA's [Listing Rules \(Disclosure of Rights of Securities\) Instrument 2020](#). Further information about the changes can be found in FCA [Handbook Notice No. 75](#) (March 2020).

Please speak to your usual Clifford Chance contact or one of the authors of this briefing if you require any further assistance.

Do I need to take any action on 27 April 2020?

- **Issuers whose listed equity securities were first admitted to the Official List after November 2013:** these issuers should be exempt as they will already have their prospectus publicly available (on the basis that in November 2013 the FCA amended the Prospectus Rules Sourcebook to include a requirement for issuers to file their prospectus electronically with the NSM).
- **Issuers whose listed equity securities were first admitted to trading to the Official List after the Prospectus Directive came into force in July 2005 but before November 2013:** these issuers should forward to the FCA for publication the approved prospectus. This could be done via an RIS.
- **Issuers whose listed equity securities were first admitted to the Official List before July 2005:** these issuers will not have an approved prospectus and should forward for publication with the FCA a copy of the relevant agreement or document that sets out the terms and conditions on which the securities were issued. In many instances, the issuer's constitutional documents (e.g. for a UK incorporated company with listed equity shares, its articles of association) should satisfy this requirement. However, where there are any additional documents (e.g. share resolutions) setting out the terms and conditions on which the issuer's listed securities were issued, then these should be forwarded to the FCA for publication along with the constitutional documents.
- **Other issuers:** there may be a small number of issuers whose listed equity securities were first admitted to the Official List before July 2005 and which do not have a relevant agreement or document that sets out the terms and conditions on which the securities were issued. In this case, the issuer will need to produce and publish a document containing a description of the rights attached to the securities, including any limitations of those rights, and the procedure for the exercise of those rights, in accordance with the relevant Annex of the Prospectus Regulation that would have to be applied if the issuer was required to produce a prospectus for the securities in question.
- **Changes to previously published information:** in all cases, if the information in relation to the rights attached to the issuer's securities set out in the document previously forwarded or filed with the FCA is no longer accurate, the exemption will not apply unless the issuer has forwarded to the FCA for publication, or otherwise filed with the FCA, a copy of either a new document (in one of the formats prescribed by LR 9.2.6ER(1)) or a document describing or setting out the changes which have occurred in relation to the rights attached to its securities. As such, issuers must confirm that any information previously filed with the FCA regarding the rights attaching to their listed securities continues to be accurate, failing which updated information will be required.
- **More than one type of listed security:** Where a company has, by way of example, both premium listed equity and standard listed debt securities it will need to comply with the relevant Listing Rule requirements for both types of securities to ensure that information about the rights attaching to each of the respective securities is made publicly available.

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