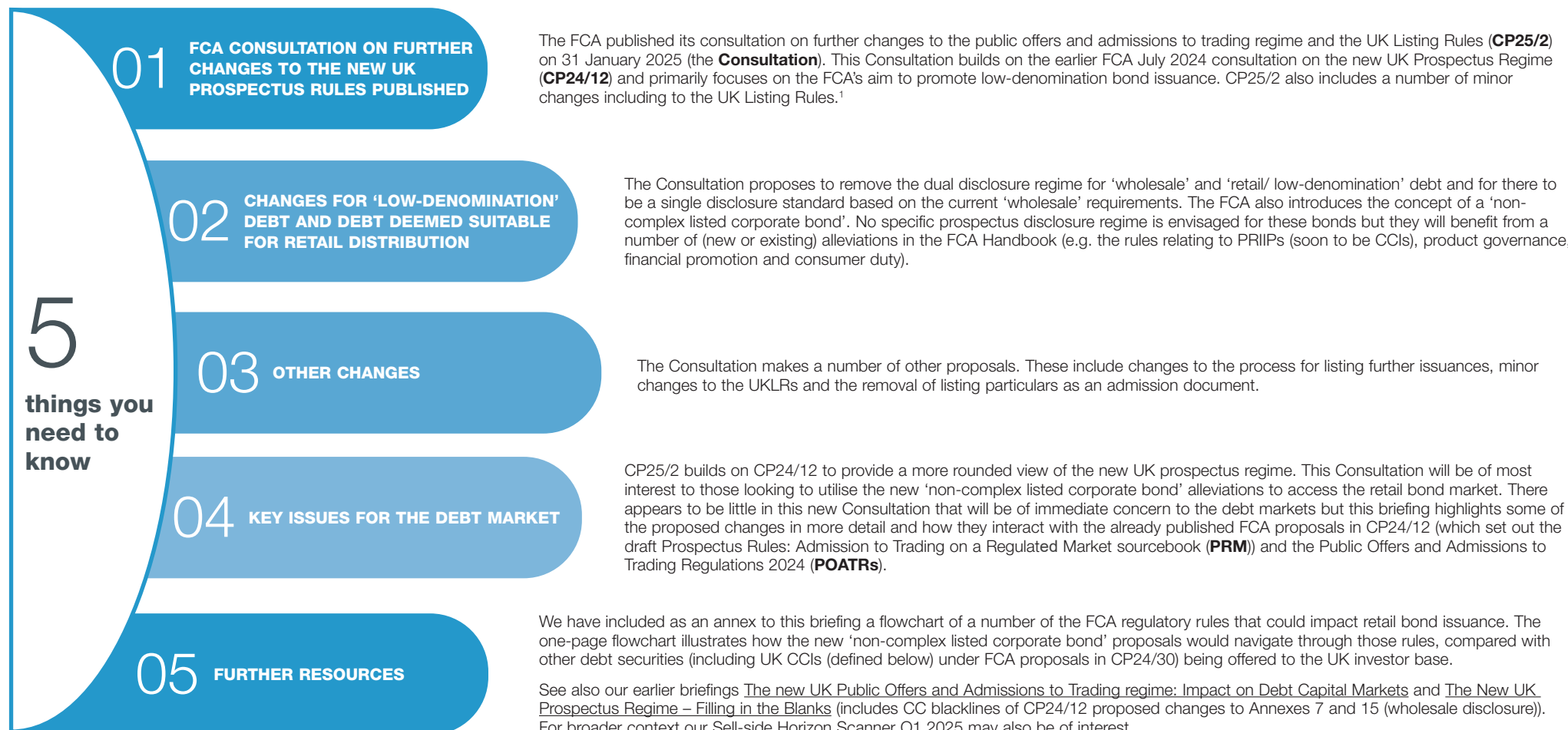


C L I F F O R D
C H A N C E

THE NEW UK PROSPECTUS REGIME AND UK LISTING RULES
FILLING IN THE BLANKS – PART 2: THE “RETAIL PIECE” – CP25/12

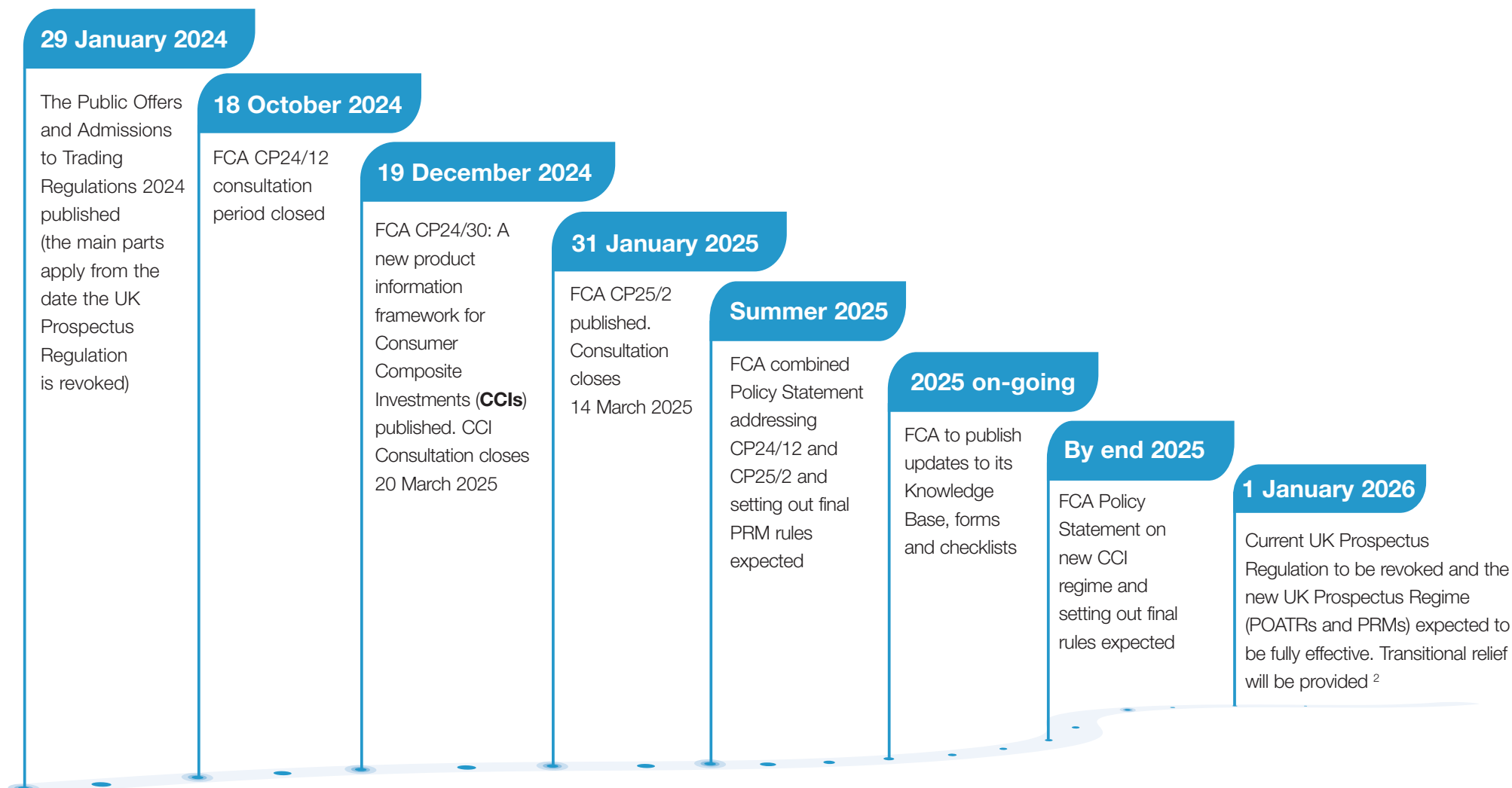
FEBRUARY 2025

THE NEW UK PROSPECTUS REGIME AND UK LISTING RULES FILLING IN THE BLANKS – PART 2: THE “RETAIL PIECE” – CP25/2



1. Appendix 1 to the Consultation sets out three draft instruments which each include proposed amendments to various parts of the FCA Handbook including to the draft Prospectus Rules: Admission to Trading on a Regulation Market sourcebook (**PRM**) as set out in CP24/12, the UK Listing Rules (**UKLR**), Conduct of Business Sourcebook (**COBS**) and Product Intervention and Product Governance Sourcebook (**PROD**).

Timeline:



2. Transitional relief will be available for prospectuses approved prior to the implementation of the new rules and these can continue to be used for the remainder of their validity period.

Push for retail participation: single disclosure standard for non-equity securities

- The Consultation identified a significant reduction in the issuance of low denomination corporate bonds since 2018 and suggests possible reasons for this as being the extra prospectus information requirements for low denomination debt securities combined with the impact of the ‘downstream’ investor protections such as the PRIIPs and product governance regimes.
- Consequently, to encourage greater access to and participation in the retail bonds market, the Consultation proposes:
 - single prospectus disclosure standard for low denomination and high denomination debt securities;
 - relaxation of accounting disclosure and reporting requirements;
 - creation of a ‘simple’ debt product termed a ‘non-complex listed corporate bond’ (see page 5 of this briefing); and
 - alleviations to (or points to existing alleviations in) the investor protection rules under the UK regulatory regime relating to CCIs (i.e. the UK replacement regime for PRIIPs which is currently being consulted on), product governance, financial promotions and the Consumer Duty (see page 6 of this briefing and annexed flowchart).

Practical Implications

- Debt prospectuses will have a uniform disclosure standard based on the wholesale annexes (in the form set out in the draft PRM) irrespective of the minimum denomination of the securities (PRM 4).
- No requirement for a summary for any debt prospectus (PRM 2.5.1).
- No requirements for debt issuers or guarantors to restate historical financial information in accordance with UK accounting standards or equivalent provided the financial information is prepared in accordance with, respectively, the issuer’s or guarantor’s national law and accounting standards that fall within the list of accounting standards set out in PRM 4.4.12 (PRM 4.4.14).
- Expansion of the exemption under DTR 4.4.2 in respect of annual and half-yearly financial reporting requirements contained in DTR 4.4 to include issuers that exclusively issue ‘non-complex listed corporate bonds’.

Push for retail participation: ‘non-complex listed corporate bonds’

- Key to the FCA’s drive to facilitate participation by retail in relatively low risk investments in UK listed businesses is the creation of a separate category of ‘non-complex listed corporate bonds’ - a ‘simple’ product viewed as being suitable for ‘mass retail’ sales, as well as sales to professional investors.
- ‘Non-complex listed corporate bonds’ need to meet the following criteria (as set out in the proposed amendments to the Glossary):
 - be admitted to the FCA’s official list;
 - be issued by an issuer (i) with an existing UK equity listing (commercial companies category) or (ii) which is a wholly owned subsidiary of a company of a type referred to in (i) and the securities are fully, unconditionally and irrevocably guaranteed by the parent company;
 - bear interest by reference to (i) a fixed rate, being a set coupon (including nil or zero) or pre-defined stepped coupon or (ii) a floating rate, with the rate determined by reference to the Bank of England official Bank Rate or another central bank equivalent, a benchmark or index that tracks UK inflation, or SONIA or another equivalent risk-free rate in another currency;
 - be unsubordinated, unsecured and not subject to bail-in; and
 - not be a convertible security, asset backed security or security giving rise to payment or delivery obligations linked to an underlying asset or index (other than benchmarks tracking UK inflation).
- The criteria do not reference denominations or say that they should be targeted at retail investors - although both are likely to be the case.

Practical Implications

- No specific prospectus disclosure regime is set out for ‘non-complex listed corporate bonds’ but they will benefit from a number of (new or existing) alleviations in the FCA Handbook (e.g. the rules relating to PRIIPs (soon to be CCIs), product governance, financial promotion and consumer duty) (see page 6 of this briefing).
- Bonds issued by credit and investment institutions e.g. banks are not in scope given the requirement for the bonds not to be subject to bail-in.
- Floating Rate bonds linked to non risk-free rates, such as EUIBOR and other IBORs, or any other reference rates not specifically listed in the Glossary definition will be out of scope.
- As bond issuances are typically marketed to both UK and EU investors, issuers and underwriters will need to be alive to ensuring that any ‘non-complex listed corporate bonds’ also offered in the EU will need to rely upon an appropriate EU Prospectus Regulation exemption for public offers (other than the usual wholesale denomination exemption).

Push for retail participation: targeted changes to the existing UK regulation regime via the CCI Consultation, the PROD rules and navigation of the current COBS and Consumer Duty rules

The Consultation only proposes changes to the PROD rules but notes the current approach in the CCI Consultation (which is intended to assist in expanding retail issuance) and identifies existing alleviated aspects of the COBS rules and the Consumer Duty requirements that can be utilised in relation to ‘non-complex listed corporate bonds’. See also our annexed flowchart to assist with the interplay of the new proposals and existing rules for low-denomination bonds.

UK PRIIPs / CCIs

- The Consultation notes that the current UK PRIIPs regime has discouraged the participation of retail in the bonds market. The UK PRIIPs regime is currently being consulted on in the CCI Consultation.
- Amongst the various amendments being proposed by the CCI Consultation is that a ‘make whole’ call option will not result in the relevant bonds being a considered a CCI. This is intended to be helpful in the context of low-denomination debt that could include a ‘make whole’ and therefore be considered a CCI and restricted from retail distribution.

Product Governance

- The Consultation proposes additional guidance to PROD 3.1.3G which deals with the proportionate application of the product governance. The new guidance provides that a ‘non-complex listed corporate bond’ will be considered a ‘simple’ instrument for the purposes of PROD 3.1.3(1)G because its features are capable of being well understood by customers in the mass retail market.
- PROD 3.1.3(1)G provides:
A proportionate application of the requirements in this chapter may mean that complying with the rules could be relatively simple for simple financial instruments distributed on an execution-only transaction basis where such financial instruments would be compatible with the needs and characteristics of the mass retail market.
- The FCA expects only a simple target market identification process need be undertaken in respect of ‘non-complex listed corporate bonds’. See the additional guidance proposed to PROD 3.2.9G to provide that for these bonds “*the identification of the target market is likely to require less detail due to the nature of the financial instrument*”.
- **A word of caution:** underwriters/managers considered as manufacturers/distributors for the purposes of EU’s product governance regime will still need to consider the appropriate target market pursuant to the regime(s) applicable to them. There is no equivalent provision to this proposed UK alleviation under EU law and this could result in a splintering of the target market identification between the UK and EU in certain instances.

Financial Promotion rules under COBS

- The Consultation does not make any proposed changes to the COBS rules but notes some confusion about the applicability of COBS 4 (*Communicating with clients, including financial promotions*) to low denomination corporate bonds.
- It clarifies that the application of the relevant rules will depend upon the specific structure of a security rather than its denomination and most debt securities will constitute ‘readily realisable securities’ (as defined in the FCA Handbook Glossary) for the purposes of the financial promotion rules and therefore not be subject to marketing restrictions or bans.
- Although the Consultation notes there are a small sub-set of listed non equity securities that are similar to ‘speculative illiquid securities’ (as defined in the FCA Handbook Glossary) and are not, nor are they expected to be, regularly traded and therefore will be subject to the same marketing restrictions as speculative illiquid securities.

Consumer Duty rules

- The Consultation seeks to reassure that simply issuing and admitting to trading low-denomination bonds will not bring an issuer under scope of the Consumer Duty rules.
- It notes that while the Consumer Duty carve-out for securities with minimum denomination of £50,000 will clearly not apply to low-denomination bonds it identifies a separate carve-out that will apply to ‘non-complex listed corporate bonds’. This carve-out is set out in limb (3) of the definition ‘retail market business’ in the FCA Glossary Handbook (set out below) pursuant to which certain activities, including underwriting, will be exempt from the Consumer Duty rules.
- Bonds with a redemption amount linked to an index will not be able to rely on this carve-out to the Consumer Duty requirements as the definition of ‘retail market business’ requires that the relevant financial instrument does not incorporate a clause or condition where the return of the initial principal amount is linked to an index.

Listing processes for further issuances and other amendments

- The Consultation looks to simplify the processes and procedures relating to the listing of further issuances. This will involve (amongst other things):
 - creating a single listing application process so that the admission process for all securities includes all future issuances of the same class, i.e. no further application needs to be submitted for any further issues (UKLR 3.2.9);
 - only requiring an issuer to advise the FCA of the final terms under a programme in the case of each new series (UKLR 20.5.1R);
 - the listed status of any individual issuance will be evidenced by that class being recorded in the Official List and the FCA will treat further issuances of the same class as being automatically listed when the securities are formally issued;
 - a new notification obligation for issuers in respect of securities admitted to trading under PRM 1.6 (as discussed below);
 - removal of the requirement for an issuer to provide written confirmation to the FCA of the number of securities to be listed (proposed deletion of UKLR 20.5.4(4)); and
 - removal of the ability for issuers to specify an ‘up to’ number of securities to be listed in anticipation of future issuances.
- For all securities being admitted to trading an issuer will be required to make the new market notification requirement via an RIS on the same business day as admission to trading occurs specifying:
 - the name and legal entity identifier of the issuer;
 - the name, type and ISIN of the transferable securities;
 - the regulated market on which the securities will be admitted to trading and the admission date;
 - whether the transferable securities admitted to trading are fungible with transferable securities already admitted to trading;
 - the number of transferable securities newly admitted to trading and the revised total number of transferable securities (in relation to a fungible issue); and
 - whether the issuer has published an FCA-approved prospectus, the date of the prospectus and its validity period (with a hyperlink to where it has been published) or is relying on a specific prospectus exemption.
- The Consultation seeks specific feedback from issuers on the impact of publishing such notification and from other market participants as to whether such information will be useful.
- Proposed deletion of the document retention requirements under UKLR 20.5.7R to 20.5.9R as these are typically in the public domain although the FCA can request these if required.

Practical Implications

- Relatively limited for debt issuances as in practice only fungible issues fall within the ‘further issuances’ category but there are some changes (see following bullets).
- Issuers will need to refer to any securities that may be issued in the future in their listing applications (UKLR 3.2.9R and 20.2.2G).
- All debt issuers (of both new and fungible issuances) will be required to prepare the new notification (PRM 1.6).
- The FCA will only need to be advised of the final terms for the first issuance of notes in a series under an MTN programme and not any subsequent tap issues of the same series (UKLR 20.5.10R). However, issuers will still need to file their final terms for such fungible issuances with the FCA under PRM 2.3.9R(2) (UKLR 20.5.10G).
- Changes to UKLR 20.5.7R unlikely to impact issuers’ current practices.

Further points of interest

Draft PRM

Closure of the PSM and removal of Listing Particulars

- The Consultation proposes the closure of the London Stock Exchange’s PSM for the purpose of new admissions and therefore to remove the ‘Listing Particulars’ as an admissions document.
- Where a Listing Particulars was otherwise required (except for a listing on the PSM), this will be replaced by the requirement to produce a ‘prospectus’.

Definition of ‘public international body’

- The definition of ‘public international body’ will be deleted from the FCA Glossary and replaced by a broader term as per CP24/12.
- The intention is to align the concepts for the purposes of the exemptions under the new prospectus regime and the continuing obligations under UKLR 17.

Publication of a prospectus prior to an offer

- Change to the PRM (PRM 9.5.-1R) clarifying that where the offer of securities to the public is relying on the admission to trading exemption (in para 6(a) of Schedule 1 of the POATRs) the prospectus must be approved by the FCA and made available to the public before the offer is made.

Admission within 60 days of further issuance

- A new requirement added to the PRM that any further issuance of securities fungible with existing securities already admitted to trading must be admitted within 60 days of the issue date of the fungible securities (PRM 1.5.2).

Fungibility

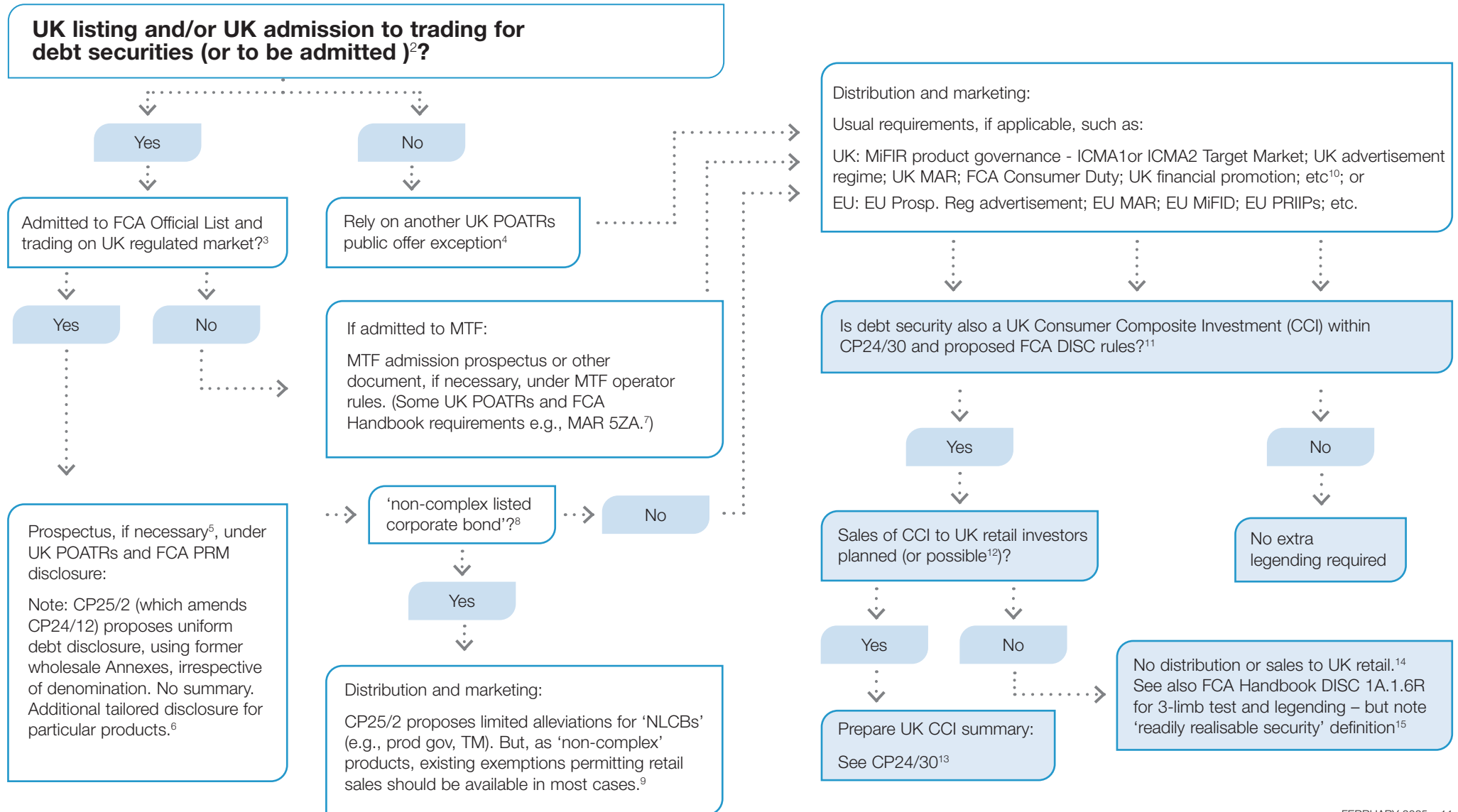
- New guidance added to the PRM (PRM 1.4.3A) on when a security should be considered fungible with an existing security, namely:
 - if it is immediately fungible; or
 - at the time of issue is intended to become fungible with an existing security within 12 months.

Structured debt products

- A number of observations made by the FCA in relation to current disclosure requirements for low denomination non-equity securities, could indicate that it may be intending to retain a more onerous approach in its final PRM disclosure requirements for structured products (as contemplated under CP24/12). In particular, the FCA has made the following comments: “[t]he existing regulations have not prevented harms arising from more complex structured debt products being targeted at retail investors”; and when referring to the ability of low denomination structured debt products to be listed, that “[t]hough retail investors could access these products, proposed guidance would imply they are not suitable for mass market sale and consumer duty obligations”.
- The FCA has also noted that, as under the current regime, there will be additional, tailored disclosure requirements for complex securities, such as asset backed securities and securities with a derivative element.

Annex: Accessing UK investors under new UK prospectus and UK CCI regimes

High-level overview of UK POATRs, UK CCI Regs, FCA consultations CP24/12, CP24/30 and CP25/2¹.



Endnotes

1 **High-level flowchart:** This one-page flowchart is intended to help you to navigate through proposals in the three FCA consultations - which together extend to over 700 pages. The flowchart “synthesises” the elements relating to debt securities and offers to UK investors (including UK retail investors).

Brief refresher on context:

- As part of the overhaul of the UK financial markets, changes are proposed to the UK prospectus regime and the current UK PRIIPs regime. In both cases, the existing regime will be repealed in full and replaced by a new UK-specific regime. The legislative framework will be created through a UK SI, but with power to create the detailed regime rules and guidance delegated to the regulator (the UK FCA).
- For the UK prospectus regime, the UK SI is [The Public Offers and Admissions to Trading Regulations 2024](#) (or POATRs), made in January 2024. For the regime to replace UK PRIIPs, the UK SI is [The Consumer Composite Investments \(Designated Activities\) Regulations 2024](#) (or CCI Regs), made in November 2024.
- The UK FCA consultations on detailed rules and guidance for the new POATRs and CCI regimes are:
 - CP24/12 (Consultation on the new Public Offers and Admission to Trading Regulations regime (POATRs)), 26 July 2024;
 - CP24/30 (A new product information framework for Consumer Composite Investments (CCIs)), 19 December 2024; and
 - CP25/2 (Further changes to the public offers and admissions to trading regime and the UK Listing Rules), 31 January 2025.

For the avoidance of doubt, this flowchart and endnotes do not address the UK FCA consultations on the proposed new public offer platform or ‘POP’ ([CP24/13](#) or [CP25/3](#)).

2 **Public offer exceptions – admission to trading:** An offer of transferable securities admitted or to be admitted to trading (conditional on admission) on a UK regulated market or a primary MTF is an exception from the [UK POATRs](#) prohibition on offers.
[See our 24 April 2024 Client briefing](#) for more detail.

Within the proposed PRM segment in the FCA Handbook, an extra change to the proposed FCA Handbook PRM rules in CP25/2 is to require at PRM 9.5.-1 that a prospectus is published before the conditional offer.

3 **Official List and admission to trading on a UK regulated market:** Proposed UKLR 3.2.3 (at page 82 of CP25/2): *“To be listed, securities must be admitted to trading on a regulated market for listed securities.”* (Securities admitted to trading on a UK MTF will not be on the Official List.)

4 **Public offer exceptions:** Other exceptions in the [UK POATRs](#) include (amongst others): an offer of ‘*relevant securities*’ made solely to qualified investors, to fewer than 150 persons in the United Kingdom (other than qualified investors), or where the denomination is equivalent to at least £50,000 (or equivalent). [See our 24 April 2024 Client briefing](#) for a fuller description.

5 **A prospectus, “if necessary”:** That is, unless relying on an exception from the need for a prospectus or base prospectus (e.g., exempt issuers or ‘fungibles’ exemptions).

6 **Prospectus content requirements:** The FCA is consulting on detailed prospectus content in:

- [CP24/12](#) (see our [29 August 2024 “Filling in the Blanks” briefing](#));
- now supplemented by [CP25/2](#) (see page 4 of this February 2025 briefing).

Briefly, key amendments in CP25/2 relevant for the flowchart are:

- **Uniform disclosure:** For prospectus disclosure, CP25/2 proposals are for **uniform** disclosure for debt securities, irrespective of whether the denomination is above or below £50,000, under former ‘wholesale’ Annexes (Annexes 7 and 15). No prospectus summary will be required.
- **Annexes – Clifford Chance blacklines:** Blacklines accompanying our August 2024 briefing on our [website page](#) show CP24/12 proposed changes to (formerly ‘wholesale’) disclosure Annexes 7 and 15. Additional CP25/2 changes to those Annexes only delete the word “wholesale” in the title.
- **For the avoidance of doubt:** The same uniform disclosure requirements will also apply to the new ‘*non-complex listed corporate bond*’ proposed in CP25/2.

- 7 **UK MTFs:** MTF operators are granted significant autonomy under the POATRs regime, including as to any documentary requirements - especially where it is a QI-only MTF (accessible only to professional investors). It is anticipated that the London ISM will be a QI-only MTF.
- Rules which potentially apply where transferable securities are admitted to trading on a Primary MTF are contained in the proposed “MAR 5ZA (*Multilateral trading facilities operating as a primary MTF*)” new segment for the UK FCA Handbook set out in CP24/12 - although may not necessarily apply to a QI-only MTF.
- 8 **‘non-complex listed corporate bond’:** A key idea in CP25/2 is to suggest a new product – a ‘*non-complex listed corporate bond*’ (see page 146 of CP25/2) - which might (due to its ‘simple’ nature) be suitable for sales to ‘mass retail’ in the UK, as well as to professional investors. Significantly, no special disclosure requirements are proposed for a ‘*non-complex listed corporate bond*’: it will be a bond admitted to the UK official list maintained by the FCA (and, therefore, admitted to trading on the UK regulated market) and subject to the same disclosure requirements.
- 9 **Distribution and marketing: ‘non-complex listed corporate bonds’ (NLCBs) – CP25/2 proposals:** A ‘simple’ or ‘non-complex’ product is, however, likely to fall within existing exemptions (e.g., current UK FCA Consumer Duty exemptions or a ‘readily realisable security’ for FCA Handbook UK financial promotion rules). The FCA proposes product governance guidance and Target Market alleviations, only, for NLCBs – see page 6 of this February 2025 briefing.
- 10 **Distribution and marketing:** CP24/12 and CP25/2 do not propose general amendments to distribution and marketing, other than for bonds which are ‘non-complex listed corporate bonds’. The FCA is, however, proposing to apply the current UK advertisement regime additionally to bonds admitting to trading on MTFs – see the definition of ‘advertisement’ in CP24/12. To view overall UK and EU financial legislative proposals, see our 28 January 2025 Clifford Chance Sell Side Horizon Scanner Q1 2025.
- 11 **Debt securities and UK CCI proposals in CP24/30:**
- The [UK CCI Regulations](#) exclude some debt securities from the scope of the CCI regime by excluding them from the definition of CCI in Regulation 4(2). But a lot of discretion was left to the FCA under Reg 4(2)(j) of the UK SI (“(j) *debt securities specified by the FCA in designated activity rules made by virtue of regulation 6;*”) - hence, the interest in the FCA Consultation CP24/30, which sets out scope as regards debt securities.
- The rules for debt securities proposed in CP24/30 are significantly based on UK FCA Handbook DISC content. They carry over, for example, the concept of a definition of which debt securities will constitute a CCI (DISC 1A.2.2R), combined with ‘neutral features’ (DISC 1A.2.4R) which will not cause a debt security to be a CCI.
- A helpful change in the ‘neutral features’ means that typical bond make-whole conditions will not be caught. There is, however, a point for discussion with the FCA on the drafting of the ‘neutral feature’ for FRNs: a narrow reading of the drafting in CP24/30 would appear to restrict the FRN rate to risk-free rates (RFRs).
- 12 **UK retail sales of CCI planned or possible?** Proposed rule DISC 1A.1.3R in CP24/30: “*This sourcebook applies to an authorised person and to an unauthorised person in relation to activities carried on in relation to a consumer composite investment that is or may be distributed to a retail investor in the United Kingdom*”. [Note, “retail investor” in DISC 1A.1.4R cross-references “retail client” used in COBS 3.]
- 13 **CCI summaries:** Very briefly, CP24/30 outlines proposals to replace a PRIIPs KID with a new summary document. There are also proposed changes to distribution and responsibilities, with more involvement from distributors (as well as manufacturers), further down the distribution chain.
- 14 **No distribution or sales to UK retail:** Guidance proposed at DISC 1A.1.5 G states: “*The rules in DISC do not apply in relation to a consumer composite investment insofar as it is distributed to an investor who is not a retail investor, or who is not in the United Kingdom*”.
- 15 **3-step requirement (‘readily realisable securities’):** FCA Handbook DISC 1A.1.7G disapplies DISC where the 3 steps in DISC 1A.1.6R are followed (largely: disclosure, ‘reasonable steps’ to direct only to professionals, and £50,000 denomination). Such steps would be prudent to follow whenever issuers wish to avoid sales to UK retail investors. But, as drafted in CP24/30, the DISC 1A.1.6R and 1A.1.7G carve-outs would only apply, technically, to ‘*readily realisable securities*’ - a narrow FCA Handbook definition, largely restricted to securities listed in the UK or traded on limited exchanges. [Contrast this with the broader DISC 1A.1.5G disapplication, mentioned above, provided that a CCI is not distributed to a UK retail investor.]

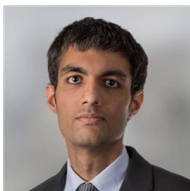
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