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STATUTORY INSTRUMENTS

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**2024 No. 105**

**The Public Offers and Admissions to Trading Regulations 2024**

**PART 3**

**Regulation of public offers and admissions to trading**

*Rule-making powers of FCA*

**FCA rules relating to admissions to trading on regulated market**

- 14.**—(1) The FCA may make designated activity rules relating to—
- (a) the carrying on of any of the activities specified in regulation 9—
    - (i) in connection with an admission, or proposed admission, of transferable securities to trading on a regulated market, or
    - (ii) in relation to transferable securities that have already been admitted, or are of a class that has already been admitted, to trading on a regulated market, or
  - (b) the carrying on of any of the activities specified in regulation 10.
- (2) Designated activity rules made by virtue of this regulation are referred to in these Regulations as “regulated market admission rules”.

**FCA rules relating to admissions to trading on primary MTF**

- 15.**—(1) The FCA may make designated activity rules relating to—
- (a) the carrying on of any of the activities specified in regulation 9—
    - (i) in connection with an admission, or proposed admission, of transferable securities to trading on a primary MTF, or
    - (ii) in relation to transferable securities that have already been admitted, or are of a class that has already been admitted, to trading on a primary MTF, or
  - (b) the carrying on of any of the activities specified in regulation 11.
- (2) Designated activity rules made by virtue of this regulation may make provision—
- (a) requiring the operator of a primary MTF that does not meet the qualified investor condition in regulation 16 to include in its rules provision requiring the issuer of transferable securities or a person requesting the admission of transferable securities to trading—
    - (i) in such cases as may be specified in the designated activity rules, to publish a document described as an MTF admission prospectus, as a condition of the admission of the transferable securities to trading on a primary MTF, and
    - (ii) in such cases as may be so specified, to publish a supplementary prospectus;
  - (b) relating to the communication of an advertisement relating to the admission, or proposed admission, of transferable securities to trading on a primary MTF.

(3) Apart from the provision mentioned in paragraph (2), designated activity rules made by virtue of this regulation may only make the provision mentioned in—

- (a) regulation 22 (responsibility for prospectus or MTF admission prospectus),
  - (b) regulation 32 (withdrawal rights), and
  - (c) paragraph 10 (protected forward-looking statements) of Schedule 2 (compensation: exemptions).
- (4) Designated activity rules made by virtue of this regulation may not—
- (a) impose requirements as to the content of an MTF admission prospectus or a supplementary prospectus relating to an MTF admission prospectus, or
  - (b) require an MTF admission prospectus, or a supplementary prospectus relating to an MTF admission prospectus, to be reviewed or approved by the FCA.

### **Qualified investor condition in regulation 15(2)(a)**

**16.**—(1) For the purposes of regulation 15(2)(a), “the qualified investor condition” is that the rules of the primary MTF provide that—

- (a) only qualified investors are permitted to trade on the primary MTF, and
  - (b) no qualified investor is permitted to trade on the primary MTF when acting (directly or through one or more intermediaries) on behalf of persons who are not themselves qualified investors.
- (2) Where—
- (a) a person who is not a qualified investor (“the client”) has engaged a qualified investor falling within paragraph 3(a) of Schedule 1 to the markets in financial instruments regulation to act as the client’s agent, and
  - (b) the terms on which the qualified investor is engaged enable the qualified investor to make decisions concerning trading on a primary MTF on the client’s behalf without reference to the client,

trading on the primary MTF by or on behalf of the qualified investor is not to be treated for the purposes of paragraph (1) as done on behalf of the client.

(3) In this regulation “qualified investor” means—

- (a) a person described in paragraph 3 of Schedule 1 to the markets in financial instruments regulation(1), other than a person who has agreed in writing with a relevant firm to be treated as a non-professional client in accordance with paragraph 4 of that Schedule;
- (b) a person who has made a request to one or more relevant firms to be treated as a professional client in accordance with paragraphs 5 and 6 of that Schedule and has not subsequently agreed in writing with that relevant firm (or each of those relevant firms) to be treated as a non-professional client in accordance with paragraph 4 of that Schedule;
- (c) a person who—
  - (i) is an eligible counterparty for the purposes of Section 6 of Chapter 3 of the Conduct of Business sourcebook, and
  - (ii) has not agreed in writing with a relevant firm to be treated as a non-professional client in accordance with paragraph 4 of Schedule 1 to the markets in financial instruments regulation; or
- (d) a person whom—

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(1) Schedule 1 was inserted by S.I. 2018/1403.

- (i) a relevant firm was authorised to continue to treat as a professional client immediately before 3 January 2018 by virtue of Article 71.6 (transitional provisions) of [Directive 2004/39/EC](#) of the European Parliament and of the Council of 21 April 2004 on markets in financial instruments amending Council Directives [85/611/EEC](#) and [93/6/EEC](#) and [Directive 2000/12/EC](#) of the European Parliament and of the Council and repealing Council Directive [93/22/EEC](#), and
  - (ii) the firm was entitled immediately before IP completion day to continue to treat as a professional client by virtue of Section II.2 of Annex II to [Directive 2014/65/EU](#) of the European Parliament and of the Council of 15 May 2014 on markets in financial instruments and amending [Directive 2002/92/EC](#) and [Directive 2011/61/EU](#).
- (4) In paragraph (3)—
- (a) “relevant firm”, in relation to a person, means an investment firm or qualifying credit institution which (in either case)—
    - (i) is the operator of a primary MTF, or
    - (ii) is to trade on a primary MTF on the person’s behalf;
  - (b) the reference to the Conduct of Business sourcebook is a reference to that sourcebook in the Handbook of Rules and Guidance published by the FCA under FSMA 2000, as it has effect from time to time.

#### **FCA rules relating to public offers unconnected with admissions to trading**

17. The FCA may also make designated activity rules relating to the carrying on of any of the activities specified in regulation 9 in cases where the offer of relevant securities to the public does not fall within regulation 14(1)(a) or 15(1)(a).

#### **Further provision about regulated market admission rules**

- 18.—(1) Regulated market admission rules may (among other things) make provision—
- (a) requiring a person proposing to request the admission of transferable securities to trading on a regulated market to notify the FCA before making the request;
  - (b) requiring a person proposing to request the admission of transferable securities to trading on a regulated market to publish a prospectus or other document before making the request;
  - (c) about the publication of a prospectus by a person proposing to request the admission of transferable securities to trading in a case where the person is not required to publish a prospectus, and about the approval or other validation of a prospectus in such a case;
  - (d) requiring that, where there is an offer to the public of transferable securities that are of the same class as transferable securities already admitted to trading, the offeror must publish specified information relating to the offer;
  - (e) requiring that before a prospectus or supplementary prospectus is published—
    - (i) it must be submitted to, and approved by, the FCA, or
    - (ii) specified conditions must be met;
  - (f) requiring specified documents to be filed with the FCA and, if the rules so provide, to be included in a database made available to the public by the FCA;
  - (g) that a prospectus may be treated as having constituent parts which may be separately submitted, approved or otherwise validated, published or filed;
  - (h) specifying circumstances in which any requirement falling within sub-paragraph (a), (b), (d), (e), (f) or (g) applies or does not apply.

- (2) Regulated market admission rules may also make provision as to—
- (a) the form and content of a prospectus, including any constituent part of, summary of, or supplement to, a prospectus;
  - (b) the procedure for the review by the FCA of a prospectus, supplementary prospectus or other document;
  - (c) the circumstances in which the FCA may decide to suspend the review of a prospectus or other document;
  - (d) the grounds on which the FCA may refuse to approve a prospectus or supplementary prospectus or may determine that a constituent part of a prospectus cannot form part of a valid prospectus;
  - (e) how and when a prospectus or supplementary prospectus must be published;
  - (f) the conditions that must be met for a prospectus, a constituent part of a prospectus, or a supplementary prospectus to become valid in a case where the rules do not require it to be approved by the FCA;
  - (g) the period during which an approved (or otherwise validated) or filed constituent part of a prospectus may form part of a valid prospectus;
  - (h) the period of validity of a prospectus;
  - (i) the disclosure of the maximum price or of the criteria or conditions according to which the final offer price is to be determined, if that information is not contained in a prospectus;
  - (j) the disclosure of the amount of the transferable securities which are to be offered to the public or of the criteria or conditions according to which that amount is to be determined, if that information is not contained in a prospectus;
  - (k) the manner in which applications to the FCA for approval of a prospectus or supplementary prospectus are to be made;
  - (l) the ways in which a prospectus or supplementary prospectus may be made available to the public;
  - (m) the disclosure, publication or other communication of other information relating to—
    - (i) transferable securities already admitted to trading on a regulated market, or
    - (ii) the admission of transferable securities to trading on a regulated market;
  - (n) the suspension of trading in transferable securities where continued trading would be detrimental to the interests of investors.
- (3) Regulated market admission rules may require the market operator not to admit transferable securities to trading on a regulated market unless conditions specified in the rules are met.
- (4) Paragraphs (1) to (3) do not limit regulation 14(1).
- (5) No obligation under regulated market admission rules to publish a prospectus is to apply in relation to the admission to trading on a regulated market of—
- (a) transferable securities resulting from the conversion or exchange, directly or indirectly, of other securities, own funds or other liabilities under the special resolution provisions, or
  - (b) existing transferable securities modified under the special resolution provisions.
- (6) In paragraph (5), “the special resolution provisions” means—
- (a) Part 1 of the Banking Act 2009 (special resolution regime)(2), or
  - (b) Schedule 11 to the Financial Services and Markets Act 2023 (central counterparties).

### **Matters to which FCA must have regard when making certain rules**

**19.** The desirability of facilitating offers of transferable securities in the United Kingdom being made to a wide range of investors is a matter specified for the purposes of section 138EA of FSMA 2000<sup>(3)</sup> in relation to the making of—

- (a) regulated market admission rules, and
- (b) rules made by virtue of regulation 15.

### **Waiver or modification of rules**

**20.** Designated activity rules made by virtue of these regulations may include provision—

- (a) enabling requirements imposed by the rules to be dispensed with, or modified, in such cases or circumstances as may be determined by the FCA under the rules;
- (b) enabling publication of any decision made under paragraph (a) in the way appearing to the FCA to be best calculated to bring it to the attention of persons likely to be affected by it.

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(3) Section 138EA was inserted by section 31(2) of the Financial Services and Markets Act 2023.