

Insights

HM TREASURY RESPONSE TO UK PROSPECTUS REGIME REVIEW

Mar 04, 2022

SUMMARY

As recommended by Lord Hill, the Government has set out its policy approach to reform the UK prospectus regime. This includes separating the regulation of public offers of securities from the admission of securities to trading and delegating a greater degree of responsibility to the FCA. Prospectuses will no longer be a feature of the public offerings regime and there will be a prohibition on public offers of securities unless one of the exemptions, from an expanded list, applies.

There is widespread support for a re-examination of the UK prospectus regime and these changes, along with the current review of the Listing Regime and the examination of the UK secondary capital market, should help to optimise the capital raising process to list on UK markets.

Review Outcome

Lord Hill's findings on the UK Listings Regime, in March 2021, recognised a need for change and reform including a fundamental rethink of the current prospectus regime. In July 2021, HM Treasury published a consultation paper and its recent findings, detailed below, set out their [policy approach](#).

Admission to Regulated Market – the concept of a prospectus will be retained but the FCA will be given greater power to determine when a prospectus is required including for further issues of shares. In conjunction with this, the criminal offence prohibiting requests for admission to trading on UK Regulated Markets without first having published an FCA-approved prospectus, will be removed and will instead be a matter for the FCA.

Public Offers – prospectuses will no longer be a feature of the public offerings regime and there will be a general prohibition on public offerings of securities unless an exemption applies. The current exemption list (ie. offers to 'qualified investors' and '150 persons') will be expanded to include:

- offers of securities which are, or will be, admitted to UK Regulated Markets (the Main Market) and certain other markets including AIM;
- further issues of shares to existing shareholders subject to certain conditions, including that the offer is made pro-rata to a person's existing shareholding; and
- offers into the UK of securities listed on certain designated overseas stock markets using offering documents prepared in accordance with the rules of the relevant overseas jurisdiction.

Private (unlisted) companies – will be able to offer securities to the public without a prospectus provided the offer is made through a platform operated by a specifically authorised firm. The FCA will determine the detailed requirements for these platforms.

The 'necessary information' test – this test, as a basic standard of preparation for a prospectus, will continue to apply but with some variations eg. the test may vary according to whether it is a first-time admission or secondary issuance.

Forward-looking information – the Government will change the liability threshold for certain forward-looking information in prospectuses from the "negligence standard" to the "recklessness standard".

The Government will now need to legislate for these changes and then the FCA, with its increased powers, will consult separately on the new regime.

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