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DCM Round Up: January 2025

Welcome to our periodic round up of key developments for DCM. Further details on some of these topics can also be found on the [Financial Markets Toolkit](#).

For a more detailed service please contact one of our experts, who can discuss in detail how these developments will affect your business and transactions.

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EU AND UK PROSPECTUS REGIME REFORM

EU Prospectus Regulation changes

As a reminder, [Regulation \(EU\) 2024/2809](#) (the [EU Listing Act](#)), which makes changes to the EU Prospectus Regulation, came into force from 4 December. It has staggered application (see our [April 2024 briefing](#)). Briefly, though:

- Changes applying from 4 December were fairly limited (such as, the ability to include future financial information in prospectuses, broader scope for fungible issues, and more optionality on languages, as well as reinstating some of the temporary COVID measures, including the 3-day withdrawal period to exercise withdrawal rights).
- Of these 4 December changes, incorporation of future financial information into prospectuses is receiving most focus on transactions. It is made possible for securities to be admitted on EEA

regulated markets through the addition of new Article 19(1b) into the EU Prospectus Regulation:

"1b. An issuer, an offeror or a person asking for admission to trading on a regulated market shall not be required to publish a supplement pursuant to Article 23(1) for new annual or interim financial information published when a base prospectus is still valid pursuant to Article 12(1). Where that new annual or interim financial information is published electronically, it may be incorporated by reference in the base prospectus in accordance with paragraph (1), point (d), of this Article. However, an issuer, an offeror or a person asking for admission to trading on a regulated market shall be entitled to voluntarily publish a supplement for such information.';..."

- Commentary is still pending from ESMA on various scoping questions in relation to the Article 19(1b) - see 'Waiting' questions 2255, 2256, 2257, 2258, 2259, and 2260 on the [ESMA Q&A tool](#). But competent authorities are already starting to review and approve base prospectuses (and supplements to base prospectuses) in which issuers are including this feature.
- As well as adding text into the "Incorporated by Reference" section of the base prospectus, parties need to consider other consequential changes. These include revisions to the 'no material adverse change' and 'no significant change' statements in the base prospectus, as well as associated changes to Dealer Agreement representations and undertakings.
- The remainder of changes to the EU Prospectus Regulation do not take effect for another 15 or 18 months (in March or June 2026) and are largely those for which additional secondary measures are required. In line with its mandate from the Commission, ESMA has already consulted on certain matters through its [28 October 2024 papers](#) (including, on ordering of information, and prospectus content requirements and disclosure Annexes (including a proposed ESG Annex)).
- There will also be a transitional grandfathering period for prospectuses. That means that, for some issuers, changes may not be relevant until 2027 base prospectus updates: "*Prospectuses approved until 4 June 2026 shall continue to be governed until the end of their validity by the version of this Regulation in force on the day of their approval*".

For a timeline slide showing application dates, see the "[Topic overview and current status](#)" tab on our Clifford Chance [Prospectus Regulation and Transparency Directive Topic Guide](#). Additionally, for a copy of our "manipulated" blackline of the EU Prospectus Regulation, which highlights timing for application of provisions, please contact us.

New UK 'POATR' regime to replace the UK Prospectus Regulation

As a reminder, the UK FCA Consultation [CP24/12](#) last summer on the new Public Offers and Admissions to Trading Regulations regime closed in mid-October (see our August 2024 "[Filling in the Blanks](#)" briefing). The next step is a related UK FCA consultation on removing barriers to issuance of low denomination bonds and encouraging retail engagement in debt markets. That "retail" consultation has been published this morning ([link](#)). We will review this and provide a detailed update in due course. For an overview timeline slide showing key dates in the UK prospectus regime change, see the "[Topic overview and current status](#)" tab on our Clifford Chance [Prospectus Regulation and Transparency Directive Topic Guide](#).

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UK REGULATORY

UK PRIIPS / UK CCIs

As part of its reform of UK financial services, the UK will be replacing the onshored UK PRIIPS regime with a new "consumer composite investments" (**CCI**) regime.

The UK SI to establish the new CCI framework was made in November 2024 (**The Consumer Composite Investments (Designated Activities) Regulations 2024**). The UK SI, itself, removes certain debt securities from scope (such as, government or local government transferable securities, and others). However, the task of determining whether debt securities fall within the scope of the new UK CCI regime is delegated primarily to the UK FCA. Relevant rules and guidance will be contained in the FCA Handbook and there will be a transitional period once rules finalised.

The FCA consultation process on revisions to the FCA Handbook is already underway. In its December 2024 consultation **CP24/30** (closing: 20 March 2025), the FCA outlined its proposals, including for debt securities. These are based significantly on the text and structure of the current UK PRIIPS 'DISC' segment of the FCA Handbook – for example, retaining the current approach of a rule containing a test for whether a debt security will be a CCI, supplemented by a list of 'neutral features' which, if included in terms and conditions, will not bring a debt security within scope. Similarly, for certain products which are CCIs, the proposals replicate (with some variations) the concept of disapplying the DISC rules where reasonable steps are taken to ensure a product is not made available to UK retail investors.

Notwithstanding the similarity of approach, the proposals do raise some issues, and we will be seeking clarity from the FCA on those or submitting formal comments on the Consultation. That said, it is worth noting that some draft changes or additions are helpful. Amongst these are a description of a call option which tallies more closely with typical bond make-whole terms than the existing 'neutral feature' in the DISC rules – and which would have the effect of taking a bond with a make-whole out of scope. (This mirrors the 'direction of travel' for the proposed EU PRIIPs regime changes.) There is also a proposal to drop the minimum threshold in the "make available" segment to £50,000 (from £100,000). In addition, the proposed Handbook rules include guidance that products will be out of scope insofar as they are distributed to an investor who is not a retail investor or not based in the United Kingdom – although the definition of "distributed" has been amended.

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OTHER UK DEVELOPMENTS

FCA UK Listing Rules

The FCA introduced new, replacement listing rules (**UKLRs**) into the **FCA Handbook** from 29 July 2024. There were very limited changes of relevance to issuers of debt securities but **UKLR 1.3.5** introduced a new requirement for debt issuers to provide the contact details of two of its executive directors to the FCA and notify the FCA of any changes (this requirement is also listed in the '48 hour documents' referred to in **UKLR 20.5.4(2)**). There was a transitional period before existing issuers needed to comply with this requirement. This transitional period [ends/ended] on 29 January 2025.

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ESG / SUSTAINABILITY

European Green Bonds

The **EU Green Bond Regulation** came into force on 21 December 2024. Issuers will need to prepare an EU Prospectus Regulation compliant prospectus to issue European Green Bonds (**EuGB**) which will be reviewed by the relevant competent authority, including for compliance with the EU Green Bond Regulation. However, there is legislative “gap” on the specific prospectus disclosure requirements for EuGB between 21 December 2024 (when the Regulation took effect) and 5 June 2026 (when the final EU Listing Act changes to the EU Prospectus Regulation, including those on EuGB disclosures, come in). In this period Article 6 of the EU Prospectus Regulation will apply to prospectus disclosure as will the **July 2023 ESMA Public Statement** as it relates to use of proceeds bonds. In addition to changes to the prospectus, EuGB issuance will require minor changes to the programme/bond contractual documents.

Other uncertainties arising from the application of the EU Green Bond Regulation include:

- whether competent authorities will allow the ability to issue EuGB to be added to an existing programme via a supplement; although we expect most competent authorities will permit this subject to any future ESMA guidance; and
- how the preparation and timing of publication of a Green Bond Factsheet will interact with issuing EuGB from a programme.

Market practice relating to EuGB is likely to be fluid in the initial period as issuers, competent authorities and external reviewers navigate the new regime.

Both the **CSSF** and the **Central Bank of Ireland** have published specific website pages for issuers of EuGB which include details of required filings, guidance and contact details.

We would be very happy to arrange a session to discuss the EU Green Bond Regulation or any other developments in the sustainable bond markets.

FCA Consultation on the Anti-Green Washing Rule

On 6 December 2024, the FCA published consultation **CP 24/26** which included proposed amendments to the Anti-Greenwashing Rule in **ESG 4.3.1** (the **AGR**) (response deadline of 13 January 2025). The amendments noted that the AGR was intended to be read consistently with the fair, clear and not misleading rules in **COBS 4.2.1** and the changes in the rules proposed in the CP are intended to “make clear” this policy intention. The CP additionally noted that the FCA was not seeking to cross-reference all sections of the Handbook in its amendments to the AGR and firms should continue to refer to its **Final Guidance**. The changes proposed by the FCA are not expected to change the approach the market has adopted to the AGR since it came into effect in May 2024.

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OTHER DEVELOPMENTS

Euronext Dublin Listing Rule changes

Euronext Dublin published its updated Regulated Markets **Listing Rule Book II** which is effective from 1 January 2025. We understand that this was updated in part to align with the other Euronext Rulebooks and in part to reflect updates to legislation. Changes for debt securities are minimal but include:

- LR 1.3.3 (Notices) if an RIS is closed for business notices do not need to be published in a newspaper but must be published by RIS when it opens.
- LR 3.4.5 (Formal Notice) the requirement to publish notices in an Irish national daily newspaper has been deleted.
- LR 6.2.1 (Continuing obligations - Information to be disclosed) information that must be published by an issuer now includes a change in paying agent and any reorganisation/merger or substitution of issuer (not further guidance is given as to how this will be interpreted).
- LR 6.2.7 (Continuing Obligations) there is a narrowing of the exemption to the requirement for an issuer to submit the guarantor's annual report so that there is only an exemption where the guarantor has **shares** admitted to an RIE (previously this referred to **securities**).
- LR 7.3.1 (Debt Listing Agent) EU Member States, local authority issuers and similar do not have to appoint a listing agent.
- A new definition of "public sector issuer" and consequential minor changes to other provisions dealing with the rules applicable to public sector issuers but we understand there should be no change in how the rules have previously been applied.
- Deletion of Chapter 9 (Dealing in Own Securities and Treasury Shares) as Euronext concluded that these provisions are covered by MAR.

Euronext Dublin have not published a comprehensive blackline of the changes.

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CLIENT BRIEFINGS AND MATERIALS

We have attached an updated Listing Comparison and ECB Eligibility Table.

You may also be interested in these client briefings:

[EU and UK Regulation Sell Side Horizon Scanner Q1 2025](#)

[EU and UK Regulation Buy Side Horizon Scanner Q1 2025](#)

[The new EU Insurance Recovery and Resolution Directive](#)

Arbitration, jurisdiction and unilateral option clauses:

Our **Clifford Chance 2024 "Unilateral Options Clauses" jurisdiction survey**, published in November, covers 120 jurisdictions. You may find the content on the UAE (page 16) of particular interest given the recent Dubai Court of Cassation construction case which commented on unilateral clauses. Our short Clifford Chance International Arbitration Insights **November 2024 blog** 'Onshore Dubai Court concludes that a unilateral option to refer to arbitration does not constitute a valid arbitration agreement' also discusses the case and possible implications for transactions with UAE issuers.

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