

Appendix A13b

Selling restrictions and legends (UK)

Appendix A13b - Selling restrictions and legends (UK)

Part I – Introduction

- 1.1 These ICMA suggested debt selling restrictions and legends are for use in connection with offerings in the UK. *November 2021*
- 1.2 This note identifies standard forms of selling restriction and legend that deal with Regulation (EU) No 1286/2014 as it forms part of domestic law by virtue of the European Union (Withdrawal) Act 2018 (the “**EUWA**”) (the “**UK PRIIPs Regulation**”), Regulation (EU) 2017/1129 as it forms part of domestic law by virtue of the EUWA (the “**UK Prospectus Regulation**”) and other UK securities laws to be used in relation to MTN programmes and standalone debt issues. *November 2021*
- 1.3 Certain types of sovereign, sovereign-guaranteed and other sovereign-related issuers are not subject to the UK PRIIPs Regulation and the UK Prospectus Regulation. For details, see Article 1(2)(b) and (d) of the UK Prospectus Regulation and Article 2(2)(b) of the UK PRIIPs Regulation. *November 2021*
- 1.4 In addition to the selling restrictions and the legend that deals with the UK PRIIPs Regulation, the following are set out: *November 2021*
- (a) an optional legend for inclusion in certain standalone prospectuses; and
 - (b) suggested legends for inclusion in standalone prospectuses and base prospectuses/final terms where low denomination notes are to be admitted to a UK qualified investor regulated market or segment only.
- 1.5 The purpose of these ICMA forms of language is to assist market efficiency by providing a generally accepted standard format. The forms of language have been prepared with the help of several international capital markets law firms and have been circulated to a number of other law firms prior to publication. The ICMA is extremely grateful for the advice and assistance it has received. *November 2021*
- 1.6 The UK Prospectus Regulation public offer selling restriction reflects the requirements of the UK Prospectus Regulation. The international capital markets law firms that helped the ICMA prepare these selling restrictions believe that they are appropriate for most MTN programmes and standalone debt issues in relation to which offers in the UK may be made. *November 2021*
- 1.7 Selling restrictions and legends addressing EEA securities laws are set out in Appendix A13. In relation to the UK PRIIPs Regulation selling restrictions and legends, the assumption is that if there are potentially sales in the UK it is likely that there will also potentially be sales in the EEA and *vice versa* such that the prohibition of sales to UK retail investors and the prohibition of sales to EEA retail investors would both be included (unless turned off under Option 2 set out in Section 2.2 below). *November 2021*

1.8 Parties may also wish to consider the potential applicability and impact of the UK product governance regime and the MiFID II product governance regime. See Appendix A12b and Appendix A12a for suggested language. November 2021

1.9 The UK on-shored EU legislation at the end of the EU withdrawal transition period. There are various ways in which definitions of such “on-shored” legislation might be drafted. The policy approach adopted in this Appendix, for simplicity, is to reference each EU Regulation “*as it forms part of domestic law by virtue of the European Union (Withdrawal) Act 2018*”. This is because the EUWA (through section 3) brings into domestic law any direct EU legislation so far as operative immediately before “IP completion day” and fixes any deficiencies in that on-shored legislation through regulations made under section 8. This drafting approach also avoids referencing specific amending UK Statutory Instruments. Market participants using this ICMA language will want to consider how the definitions tie in more broadly with the usual approach taken in their documentation (for example, whether references to legislation are usually expressly stated to be “as amended”, whether a construction clause is usually adopted or whether a reference to a piece of legislation is in general regarded to be a reference to that piece of legislation as it stands at the date of the document). November 2021

Part II – MTN programmes

2.1 UK PRIIPs Regulation selling restriction and legend (Option 1) and other UK securities laws November 2021

Selling restriction

The following selling restriction and legend should be used where the issuer wishes to impose a blanket prohibition on marketing and sales to UK retail investors in respect of all issuances under the programme.

If this selling restriction is included, there is no need for a separate UK Prospectus Regulation public offer selling restriction.

UNITED KINGDOM

Prohibition of sales to UK Retail Investors

Each Dealer has represented and agreed, and each further Dealer appointed under the Programme will be required to represent and agree, that it has not offered, sold or otherwise made available and will not offer, sell or otherwise make available any Notes which are the subject of the offering contemplated by [the / this] [Offering Circular / Prospectus] as completed by the Final Terms [(or Pricing Supplement, as the case may be)]¹ in relation thereto to any retail investor in the United Kingdom. For the purposes of this provision:

- (a) the expression “**retail investor**” means a person who is one (or more) of the following:
- (i) a retail client, as defined in point (8) of Article 2 of Regulation (EU) No 2017/565 as it forms part of domestic law by virtue of the European Union (Withdrawal) Act 2018 (“**EUWA**”); or
 - (ii) a customer within the meaning of the provisions of the FSMA² and any rules or regulations made under the FSMA to implement Directive (EU) 2016/97, where that customer would not qualify as a professional client, as defined in point (8) of Article 2(1) of Regulation (EU) No 600/2014 as it forms part of domestic law by virtue of the EUWA³; or
 - (iii) not a qualified investor as defined in Article 2 of [Regulation (EU) 2017/1129 as it forms part of domestic law by virtue of the EUWA]⁴; and
- (b) the expression an “**offer**” includes the communication in any form and by any means of sufficient information on the terms of the offer and the Notes to be offered so as to enable an investor to decide to purchase or subscribe for the Notes⁵.

Other regulatory restrictions

Each Dealer has represented and agreed, and each further Dealer appointed under the Programme will be required to represent and agree, that:

- (a) [in relation to any Notes which have a maturity of less than one year, (i) it is a person whose ordinary activities involve it in acquiring, holding, managing or disposing of investments (as principal or agent) for the purposes of its business and (ii) it has not offered or sold and will not offer or sell any Notes other than to persons whose ordinary activities involve them in acquiring, holding, managing or disposing of investments (as principal or as agent) for the purposes of their businesses or who it is reasonable to expect will acquire, hold, manage or dispose of investments (as principal or agent) for the purposes of their businesses where the issue of the Notes would otherwise constitute a contravention of Section 19 of the FSMA by the Issuer;]⁶
- (b) it has only communicated or caused to be communicated and will only communicate or cause to be communicated an invitation or inducement to engage in investment activity (within the meaning of Section 21 of the FSMA) received by it in connection with the issue or sale of any Notes in circumstances in which Section 21(1) of the FSMA does not apply to the Issuer [or the Guarantor];⁷ and
- (c) it has complied and will comply with all applicable provisions of the FSMA with respect to anything done by it in relation to any Notes in, from or otherwise involving the United Kingdom.

Legend

Legend for inclusion on:

- front cover/inside front cover of base prospectus/offering circular;
- front of pro forma final terms/pricing supplement; and
- front of Final Terms/Pricing Supplement

PROHIBITION OF SALES TO UK RETAIL INVESTORS –

The Notes are not intended to be offered, sold or otherwise made available to and should not be offered, sold or otherwise made available to any retail investor in the United Kingdom (“**UK**”). For these purposes, a retail investor means a person who is one (or more) of: (i) a retail client, as defined in point (8) of Article 2 of Regulation (EU) No 2017/565 as it forms part of domestic law by virtue of the European Union (Withdrawal) Act 2018 (“**EUWA**”); (ii) a customer within the meaning of the provisions of the FSMA and any rules or regulations made under the FSMA to implement Directive (EU) 2016/97, where that customer would not qualify as a professional client, as defined in point (8) of Article 2(1) of Regulation (EU) No 600/2014 as it forms part of domestic law by virtue of the EUWA⁸; or (iii) not a qualified investor as defined in Article 2 of Regulation (EU) 2017/1129 as it forms part of domestic law by virtue of the EUWA⁸. Consequently no key information document required by Regulation (EU) No 1286/2014 as it forms part of domestic law by virtue of the EUWA (the “**UK PRIIPs Regulation**”) for offering or selling the Notes or otherwise making them available to retail investors in the UK has been prepared and therefore offering or selling the Notes or otherwise making them available to any retail investor in the UK may be unlawful under the UK PRIIPs Regulation.

2.2

UK PRIIPs Regulation selling restriction and legend (Option 2), UK Prospectus Regulation and other UK securities laws

November
2021

Selling restriction

The following selling restriction and legend should be used where the issuer wishes to impose a prohibition on marketing and sales to UK retail investors, with the option to switch off this prohibition in the final terms for (1) “non-packaged” issues under the programme that will be sold to UK retail investors and/or (2) “packaged” issues under the programme that will be sold to UK retail investors with a UK PRIIPs Regulation KID.

If this option is used, amendments will need to be made to the form of final terms and pricing supplement. See further “Prohibition of Sales to UK Retail Investors” in:

- Appendix A8, Part III (pro forma retail final terms), item 8 of Part B;
- Appendix A8, Part VI (pro forma wholesale final terms), item 6 of Part B; and
- Appendix A8, Part IX (pro forma pricing supplement), item 5 of Part B.

Prohibition of Sales to UK Retail Investors

Unless the Final Terms [(or Pricing Supplement, as the case may be)]¹ in respect of any Notes specifies the “Prohibition of Sales to UK Retail Investors” as “Not Applicable”, each Dealer has represented and agreed, and each further Dealer appointed under the Programme will be required to represent and agree, that it has not offered, sold or otherwise made available and will not offer, sell or otherwise make available any Notes which are the subject of the offering contemplated by [the / this] [Offering Circular / Prospectus] as completed by the Final Terms [(or Pricing Supplement, as the case may be)]¹ in relation thereto to any retail investor in the United Kingdom. For the purposes of this provision:

- (a) the expression “**retail investor**” means a person who is one (or more) of the following:
- (i) a retail client, as defined in point (8) of Article 2 of Regulation (EU) No 2017/565 as it forms part of domestic law by virtue of the European Union (Withdrawal) Act 2018 (“**EUWA**”); or
 - (ii) a customer within the meaning of the provisions of the FSMA² and any rules or regulations made under the FSMA to implement Directive (EU) 2016/97, where that customer would not qualify as a professional client, as defined in point (8) of Article 2(1) of Regulation (EU) No 600/2014 as it forms part of domestic law by virtue of the EUWA³; or
 - (iii) not a qualified investor as defined in Article 2 of [Regulation (EU) 2017/1129 as it forms part of domestic law by virtue of the EUWA]^{4,9}; and
- (b) the expression an “**offer**” includes the communication in any form and by any means of sufficient information on the terms of the offer and the Notes to be offered so as to enable an investor to decide to purchase or subscribe for the Notes.⁵

¹⁰[If the Final Terms [(or Pricing Supplement, as the case may be)]¹ in respect of any Notes specifies “Prohibition of Sales to UK Retail Investors” as “Not Applicable”, each Dealer has represented and agreed, and each further Dealer appointed under the Programme will be required to represent and agree, that it has not made and will not make an offer of Notes which are the subject of the offering contemplated by this [Offering Circular / Prospectus] as completed by the final terms in relation thereto to the public in the United Kingdom except that it may make an offer of such Notes to the public in the United Kingdom:

(A) ¹¹[if the final terms in relation to the Notes specify that an offer of those Notes may be made other than pursuant to section 86 of the FSMA (a **Public Offer**¹²), following the date of publication of a prospectus in relation to such Notes which [either (i)] has been approved by the Financial Conduct Authority[, or (ii) is to be treated as if it had been approved by the Financial Conduct Authority in accordance with the transitional provision in Regulation 74 of the Prospectus (Amendment etc.) (EU Exit) Regulations 2019]¹³, provided that any such prospectus has subsequently been completed by final terms contemplating such Public Offer, in the period beginning and ending on the dates specified in such prospectus or final terms, as applicable,¹⁴ and the Issuer has consented in writing to its use for the purpose of that Public Offer¹⁵.]

(B) at any time to any legal entity which is a qualified investor as defined in Article 2 of [Regulation (EU) 2017/1129 as it forms part of domestic law by virtue of the EUWA]⁹;

(C) at any time to fewer than 150 natural or legal persons (other than qualified investors as defined in Article 2 of [Regulation (EU) 2017/1129 as it forms part of domestic law by virtue of the EUWA]⁹) in the United Kingdom subject to obtaining the prior consent of the relevant Dealer or Dealers nominated by the Issuer for any such offer; or¹⁶

(D) at any time in any other circumstances falling within section 86 of the FSMA,

provided that no such offer of Notes referred to in [(B) to (D)] above shall require the Issuer or any Dealer to publish a prospectus pursuant to section 85 of the FSMA¹⁷ or supplement a prospectus pursuant to Article 23 of [Regulation (EU) 2017/1129 as it forms part of domestic law by virtue of the EUWA]⁹.

For the purposes of this provision, the expression “**an offer of Notes to the public**” in relation to any Notes means the communication in any form and by any means of sufficient information on the terms of the offer and the Notes to be offered so as to enable an investor to decide to purchase or subscribe for the Notes [and the expression “**UK Prospectus Regulation**” means Regulation (EU) 2017/1129 as it forms part of domestic law by virtue of the EUWA].]

Other regulatory restrictions

Each Dealer has represented and agreed, and each further Dealer appointed under the Programme will be required to represent and agree, that:

- (a) [in relation to any Notes which have a maturity of less than one year, (i) it is a person whose ordinary activities involve it in acquiring, holding, managing or disposing of investments (as principal or agent) for the purposes of its business and (ii) it has not offered or sold and will not offer or sell any Notes other than to persons whose ordinary activities involve them in acquiring, holding, managing or disposing of investments (as principal or as agent) for the purposes of their businesses or who it is reasonable to expect will acquire, hold, manage or dispose of investments (as principal or agent) for the purposes of their businesses where the issue of the Notes would otherwise constitute a contravention of Section 19 of the FSMA by the Issuer;]⁶
- (b) it has only communicated or caused to be communicated and will only communicate or cause to be communicated an invitation or inducement to engage in investment activity (within the meaning of Section 21 of the FSMA) received by it in connection with the issue or sale of any Notes in circumstances in which Section 21(1) of the FSMA does not apply to the Issuer [or the Guarantor];⁷ and
- (c) it has complied and will comply with all applicable provisions of the FSMA with respect to anything done by it in relation to any Notes in, from or otherwise involving the United Kingdom.

Legend

Legend for inclusion on:

- the front cover/inside front cover of base prospectus/offering circular;
- the front of pro forma final terms/pricing supplement;
- the front of Final Terms/Pricing Supplement for offers of notes that potentially constitute “packaged” products and where no UK KID will be prepared, or where the issuer wishes to prohibit offers to UK retail investors for any other reason.

[[IMPORTANT – UK RETAIL INVESTORS]¹⁸ / [PROHIBITION OF SALES TO UK RETAIL INVESTORS]¹⁹ - [If the Final Terms [(or Pricing Supplement, as the case may be)]^{1,20} in respect of any Notes includes a legend entitled “Prohibition of Sales to UK Retail Investors”, the]¹⁹[The]¹⁹ Notes are not intended to be offered, sold or otherwise made available to and should not be offered, sold or otherwise made available to any retail investor in the United Kingdom (“**UK**”). For these purposes, a retail investor means a person who is one (or more) of: (i) a retail client, as defined in point (8) of Article 2 of Regulation (EU) No 2017/565 as it forms part of domestic law by virtue of the European Union (Withdrawal) Act 2018 (“**EUWA**”); (ii) a customer within the meaning of the provisions of the FSMA² and any rules or regulations made under the FSMA to implement Directive (EU) 2016/97, where that customer would not qualify as a professional client, as defined in point (8) of Article 2(1) of Regulation (EU) No 600/2014 as it forms part of domestic law by virtue of the EUWA³; or (iii) not a qualified investor as defined in Article 2 of Regulation (EU) 2017/1129 as it forms part of domestic law by virtue of the EUWA]³. Consequently no key information document required by Regulation (EU) No 1286/2014 as it forms part of domestic law by virtue of the EUWA (the “**UK PRIIPs Regulation**”) for offering or selling the Notes or otherwise making them available to retail investors in the UK has been prepared and therefore offering or selling the Notes or otherwise making them available to any retail investor in the UK may be unlawful under the UK PRIIPs Regulation.]²¹

2.4 Conditions for determining price to be included in the base prospectus (UK Prospectus Regulation Article 17)

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See item 2.4 in Appendix A13, which can be used without amendment for the purposes of UK Prospectus Regulation Article 17.

2.5 **Legends related to notes which are to be traded only on a specific segment of the London Stock Exchange's main market to which only qualified investors can have access**

The following legends are relevant where the base prospectus is drawn up on the basis of the "wholesale" disclosure regime, i.e. utilising the exemption from the UK Prospectus Regulation summary requirement and addressing the disclosure requirements in the wholesale non-equity annexes in Delegated Regulation (EU) 2019/980, and envisages that notes with a minimum denomination of less than €100,000 (or equivalent) which are to be traded only on a specific segment of the London Stock Exchange's main market to which only qualified investors can have access will be issued under the programme.²²

Legend for inclusion on inside front cover of base prospectus/ offering circular

[[Furthermore, this]][This]²³ [Offering Circular/Prospectus] has been prepared on the basis that any Notes with a minimum denomination of less than €100,000 (or equivalent in another currency) will (i) only be admitted to trading on a specific segment of the London Stock Exchange's main market to which only qualified investors (as defined in the UK Prospectus Regulation) can have access (in which case they shall not be offered or sold to non-qualified investors) or (ii) only be offered to the public pursuant to an exemption under section 86 of the FSMA.

Legend for inclusion on front of Final Terms for Notes which will only be admitted to trading on a specific segment of the London Stock Exchange's main market to which only qualified investors can have access

The Notes will only be admitted to trading on a specific segment of the London Stock Exchange's main market to which only qualified investors (as defined in the UK Prospectus Regulation) can have access and shall not be offered or sold to non-qualified investors.

Part III – Standalone debt issues

3.1 UK PRIIPs Regulation selling restriction and legend.

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The following selling restriction and legend are relevant for offers of Notes that potentially constitute “packaged” products and where no KID will be prepared under the UK PRIIPs Regulation; or where the issuer wishes to prohibit offers to UK retail investors for any other reason. Otherwise, one of the UK Prospectus Regulation exempt public offer or UK Prospectus Regulation non-exempt public offer selling restrictions set out in 3.2 or 3.3 should be used, if needed.

Selling restriction

Prohibition of Sales to UK Retail Investors

Each Manager has represented and agreed that it has not offered, sold or otherwise made available and will not offer, sell or otherwise make available any Notes to any retail investor in the United Kingdom. For the purposes of this provision:

- (a) the expression “**retail investor**” means a person who is one (or more) of the following:
 - (i) a retail client, as defined in point (8) of Article 2 of Regulation (EU) No 2017/565 as it forms part of domestic law by virtue of the European Union (Withdrawal) Act 2018 (“**EUWA**”); or
 - (ii) a customer within the meaning of the provisions of the FSMA² and any rules or regulations made under the FSMA to implement Directive (EU) 2016/97, where that customer would not qualify as a professional client, as defined in point (8) of Article 2(1) of Regulation (EU) No 600/2014 as it forms part of domestic law by virtue of the EUWA³; or
 - (iii) not a qualified investor as defined in Article 2 of [Regulation (EU) 2017/1129 as it forms part of domestic law by virtue of the EUWA]⁴; and
- (b) the expression “**offer**” includes the communication in any form and by any means of sufficient information on the terms of the offer and the Notes to be offered so as to enable an investor to decide to purchase or subscribe for the Notes²⁴.

Legend

*Legend for inclusion on front cover/inside front cover of prospectus/
offering circular.*

PROHIBITION OF SALES TO UK RETAIL INVESTORS – The Notes are not intended to be offered, sold or otherwise made available to and should not be offered, sold or otherwise made available to any retail investor in the United Kingdom (“**UK**”). For these purposes, a retail investor means a person who is one (or more) of: (i) a retail client, as defined in point (8) of Article 2 of Regulation (EU) No 2017/565 as it forms part of domestic law by virtue of the European Union (Withdrawal) Act 2018 (“**EUWA**”); (ii) a customer within the meaning of the provisions of the FSMA and any rules or regulations made under the FSMA to implement Directive (EU) 2016/97, where that customer would not qualify as a professional client, as defined in point (8) of Article 2(1) of Regulation (EU) No 600/2014 as it forms part of domestic law by virtue of the EUWA;³ or (iii) not a qualified investor as defined in Article 2 of Regulation (EU) 2017/1129 as it forms part of domestic law by virtue of the EUWA]²⁵. Consequently no key information document required by Regulation (EU) No 1286/2014 as it forms part of domestic law by virtue of the EUWA (the “**UK PRIIPs Regulation**”) for offering or selling the Notes or otherwise making them available to retail investors in the UK has been prepared and therefore offering or selling the Notes or otherwise making them available to any retail investor in the UK may be unlawful under the UK PRIIPs Regulation.

3.2 **UK Prospectus Regulation exempt public offer selling restriction and optional legend**

*November
2021*

This selling restriction should be used and the optional legend is appropriate where:

- *the UK PRIIPs Regulation selling restriction and legend (set out at 3.1 above) is **not** being used; and*
- *the notes to be issued have a denomination of less than €100,000 or equivalent.*

This selling restriction and optional legend may be excluded where the minimum denomination of the notes is equal to, or greater than €100,000 or equivalent.

Selling restriction

Each Manager has represented and agreed that it has not made and will not make an offer of Notes which are the subject of the offering contemplated by [the / this] [Offering Circular / Prospectus] to the public in the United Kingdom other than:

- (a) to any legal entity which is a qualified investor as defined in Article 2 of [Regulation (EU) 2017/1129 as it forms part of domestic law by virtue of the EUWA]⁹;

(b) to fewer than 150 natural or legal persons (other than qualified investors as defined in Article 2 of [Regulation (EU) 2017/1129 as it forms part of domestic law by virtue of the EUWA]⁹) in the United Kingdom, subject to obtaining the prior consent of the relevant Manager or Managers nominated by the Issuer for any such offer; or

(c) in any other circumstances falling within section 86 of the FSMA, provided that no such offer of Notes shall require the Issuer or any Manager to publish a prospectus pursuant to section 85 of the FSMA¹⁷ [or supplement a prospectus pursuant to Article 23 of [Regulation (EU) 2017/1129 as it forms part of domestic law by virtue of the EUWA]^{9,26}].

For the purposes of this provision, the expression an “**offer of Notes to the public**” in relation to any Notes means the communication in any form and by any means of sufficient information on the terms of the offer and the Notes to be offered so as to enable an investor to decide to purchase or subscribe for the Notes [and the expression “**UK Prospectus Regulation**” means Regulation (EU) 2017/1129, as it forms part of domestic law by virtue of the EUWA].

Optional legend

This legend may be included on the front cover/inside front cover of the prospectus/offering circular.

This [Offering Circular / Prospectus] has been prepared on the basis that any offer of Notes in the United Kingdom will be made pursuant to an exemption under the FSMA from the requirement to publish a prospectus for offers of Notes. Accordingly any person making or intending to make an offer in the United Kingdom of Notes which are the subject of the [offering / placement] contemplated in this [Offering Circular / Prospectus] may only do so in circumstances in which no obligation arises for the Issuer or any of the Managers to publish a prospectus pursuant to section 85 of the FSMA² [or supplement a prospectus pursuant to Article 23 of [Regulation (EU) 2017/1129 as it forms part of domestic law by virtue of the EUWA]^{9,26}, in each case, in relation to such offer. Neither the Issuer nor the Managers have authorised, nor do they authorise, the making of any offer of Notes in circumstances in which an obligation arises for the Issuer or the Managers to publish [or supplement]²⁶ a prospectus for such offer. [The expression “**UK Prospectus Regulation**” means Regulation (EU) 2017/1129, as it forms part of domestic law by virtue of the EUWA.]

3.3 UK Prospectus Regulation non-exempt public offer selling restriction and optional legend

November
2021

This selling restriction should be used and the optional legend is appropriate where:

- *the UK PRIPs Regulation selling restriction and legend (set out at 3.1 above) is **not** being used (because the notes are “non-packaged” or “packaged” with a UK KID available);*
- *the notes to be issued have a denomination of less than €100,000 or equivalent; and*
- *the prospectus has been approved by the Financial Conduct Authority.*

Selling restriction

Each Manager has represented and agreed that it has not made and will not make an offer of Notes which are the subject of the offering contemplated by [the / this] [Offering Circular / Prospectus] to the public in the United Kingdom other than the offer contemplated in the [Offering Circular / Prospectus] from the time the [Offering Circular / Prospectus] has been approved by the Financial Conduct Authority and published in accordance with [Regulation (EU) 2017/1129 as it forms part of domestic law by virtue of the EUWA]⁹ until [...] ²⁷, and provided that the Issuer has consented in writing to use of the [Offering Circular / Prospectus] for any such offers, except that it may make an offer of such Notes to the public in the United Kingdom:

- (a) to any legal entity which is a qualified investor as defined in Article 2 of [Regulation (EU) 2017/1129 as it forms part of domestic law by virtue of the EUWA]⁹;
- (b) to fewer than 150 natural or legal persons (other than qualified investors as defined in Article 2 of [Regulation (EU) 2017/1129 as it forms part of domestic law by virtue of the EUWA]⁹) in the United Kingdom, subject to obtaining the prior consent of the relevant Manager or Managers nominated by the Issuer for any such offer; or
- (c) in any other circumstances falling within section 86 of the FSMA, provided that no such offer of Notes shall require the Issuer or any Manager to publish a prospectus pursuant to section 85 of the FSMA¹⁷ or supplement a prospectus pursuant to Article 23 of [Regulation (EU) 2017/1129 as it forms part of domestic law by virtue of the EUWA]⁹.

For the purposes of this provision, the expression an “**offer of Notes to the public**” in relation to any Notes means the communication in any form and by any means of sufficient information on the terms of the offer and the Notes to be offered so as to enable an investor to decide to purchase or subscribe for the Notes [and the expression “**UK Prospectus Regulation**” means Regulation (EU) 2017/1129, as it forms part of domestic law by virtue of the EUWA].

Optional legend

This legend may be included on the front cover/inside front cover of the prospectus/offering circular.

This [Offering Circular / Prospectus] has been prepared on the basis that any offer of Notes in the United Kingdom other than offers (the **"Permitted Public Offers"**) which are made prior to [...]²⁷, and which are contemplated in the [Offering Circular / Prospectus] once the [Offering Circular / Prospectus] has been approved by the Financial Conduct Authority and published in accordance with [Regulation (EU) 2017/1129 as it forms part of domestic law by virtue of the EUWA]⁹, and in respect of which the Issuer has consented in writing to the use of the [Offering Circular / Prospectus]¹⁵, will be made pursuant to an exemption under the FSMA from the requirement to publish a prospectus for offers of Notes. Accordingly any person making or intending to make an offer in the United Kingdom of Notes which are the subject of the [offering / placement] contemplated in this [Offering Circular / Prospectus], other than the Permitted Public Offers, may only do so in circumstances in which no obligation arises for the Issuer or any of the Managers to publish a prospectus pursuant to section 85 of the FSMA² or supplement a prospectus pursuant to Article 23 of [Regulation (EU) 2017/1129 as it forms part of domestic law by virtue of the EUWA]⁹, in each case, in relation to such offer. Neither the Issuer nor the Managers have authorised, nor do they authorise, the making of any offer (other than Permitted Public Offers) of Notes in circumstances in which an obligation arises for the Issuer or the Managers to publish or supplement a prospectus for such offer. [The expression **"UK Prospectus Regulation"** means Regulation (EU) 2017/1129, as it forms part of domestic law by virtue of the EUWA.]

3.4 Legend related to notes which are to be traded only on a specific segment of the London Stock Exchange's main market to which only qualified investors can have access

November
2021

The following legend should only be used where the prospectus is drawn up on the basis of the "wholesale" disclosure regime, i.e. utilising the exemption from the UK Prospectus Regulation summary requirement and addressing the disclosure requirements in the wholesale non-equity annexes in Delegated Regulation (EU) 2019/980 as it forms part of domestic law by virtue of the EUWA, and the notes to be issued have a denomination of less than €100,000 (or equivalent) and are to be traded only on a specific segment of the London Stock Exchange's main market to which only qualified investors can have access.

The Notes will only be admitted to trading on a specific segment of the London Stock Exchange's main market to which only qualified investors (as defined in the UK Prospectus Regulation) can have access and shall not be offered or sold to non-qualified investors.

3.5 Selling restrictions addressing additional UK securities laws

November
2021

Each Manager has represented and agreed that:

- [(a) (i) it is a person whose ordinary activities involve it in acquiring, holding, managing or disposing of investments (as principal or agent) for the purposes of its business and (ii) it has not offered or sold and will not offer or sell the Notes other than to persons whose ordinary activities involve them in acquiring, holding, managing or disposing of investments (as principal or as agent) for the purposes of their businesses or who it is reasonable to expect will acquire, hold, manage or dispose of investments (as principal or agent) for the purposes of their businesses where the issue of the Notes would otherwise constitute a contravention of Section 19 of the FSMA by the Issuer;]⁶
- (b) it has only communicated or caused to be communicated and will only communicate or cause to be communicated an invitation or inducement to engage in investment activity (within the meaning of Section 21 of the FSMA) received by it in connection with the issue or sale of the Notes in circumstances in which Section 21(1) of the FSMA does not apply to the Issuer [or the Guarantor];⁷ and
- (c) it has complied and will comply with all applicable provisions of the FSMA with respect to anything done by it in relation to the Notes in, from or otherwise involving the United Kingdom.

Part IV – Notes

1. *Include this language where the base prospectus/offering circular includes a pro forma pricing supplement.* November 2021
2. *Check that the term “FSMA” is defined in the document.* November 2021
3. *This limb of the definition is included to ensure it is clear that all limbs of the definition of “retail investor” in the UK PRIIPs Regulation have been addressed.* November 2021
4. *The three limbs and paragraph (b) have been included to ensure it is clear how both the UK public offer regime (for securities with a denomination of less than EUR 100,000 or equivalent) and the UK PRIIPs Regulation are being addressed.* November 2021
5. *Because a UK public offer selling restriction is not required where the programme contains a blanket prohibition on the issue of notes with a denomination of less than EUR 100,000 or equivalent, paragraphs (a) (iii) and (b) (which relate to the UK public offer regime) do not need to be included where the programme contains such blanket prohibition.* November 2021
6. *This selling restriction is included to reflect the fact that Section 19 of the FSMA effectively prohibits any person other than an authorised person permitted to accept deposits under the FSMA from taking deposits in the UK by way of business. Under the Regulated Activities Order, most securities issues do not constitute deposits. However, notes with a maturity of less than 1 year must have a minimum denomination of £100,000 (or equivalent) or more AND must be issued to professionals only, so as not to constitute deposits. This provision should be deleted if notes which have a maturity of less than one year cannot be issued under the programme, in the case of a programme, or if the notes have a maturity of one year or more, in the case of a standalone debt issuance, or in any event if the issuer is an authorised person permitted to accept deposits or an exempt person under the FSMA.* November 2021
7. *If there is only an issuer which is an authorised person, replace “does not” with “would not, if the Issuer was not an authorised person,”. If there is both an issuer and a guarantor and only one of them is authorised, insert after “does not” the words “or, in the case of the [Issuer / Guarantor], would not, if it was not an authorised person,”.* November 2021
8. *Because a UK public offer selling restriction is not required where the programme contains a blanket prohibition on the issue of notes with a denomination of less than EUR 100,000 or equivalent, the third limb of the definition of retail investor (which relates to the UK public offer regime) does not need to be included where the programme contains such blanket prohibition.* November 2021
9. *It is possible to use the term “UK Prospectus Regulation” if such term is defined later in the selling restriction or legend.* November 2021

10. *This selling restriction is not required if the programme contains a blanket prohibition on the issue of notes, whether admitted to trading on the London Stock Exchange's main market or not, with a denomination of less than €100,000 or equivalent (in which case, a UK public offer selling restriction is not required).* November 2021
11. *In the case of programmes where the base prospectus has been approved solely: (i) for the admission to trading of notes with a denomination of at least €100,000 or equivalent; (ii) for the admission to trading of notes with a denomination of less than €100,000 or equivalent on a specific segment of the London Stock Exchange's main market to which only qualified investors can have access; and/ or (iii) by an EEA competent authority, sub-paragraph (A) of the selling restriction should be deleted as it is not appropriate for such a base prospectus.* November 2021
12. *The term "Public Offer" has been used here, rather than "Non-exempt Offer", to reflect the approach usually adopted in FCA approved retail prospectuses.* November 2021
13. *Limb (ii) is not included in EU prospectuses approved post-Brexit as it related to EU prospectuses passported into the UK before the end of the Brexit transition period. It will be removed from the ICMA Primary Market Handbook in due course when the transitional arrangements under Regulation 74 of the Prospectus (Amendment etc.) (EU Exit) Regulations 2019 are no longer relevant.* November 2021
14. *The prospectus or final terms therefore needs to include start and end dates.* November 2021
15. *Appendix A16[a] in the ICMA Primary Market Handbook provides standard language that may be used in prospectuses where the issuer wishes to consent, in accordance with Article 5(1) of the UK Prospectus Regulation, in the context of a Public Offer, to the use of the prospectus in a subsequent resale of securities or final placement of securities through financial intermediaries.* November 2021
16. *Users may want to add the following optional wording between the current sub-paragraphs (C) and (D) of the selling restriction, if they think this would provide more clarity and guidance to readers in relation to base prospectuses that have been approved solely for the admission to trading of notes with a denomination of at least €100,000 or equivalent: "(D) at any time if the denomination per [Note / unit of Notes] being offered amounts to at least €100,000 (or equivalent);".* November 2021
17. *The cornerstone provisions of the UK prospectus regime are set out in Article 3 UK Prospectus Regulation and in section 85 FSMA. Section 85 FSMA has been used here, as it is where the criminal offence lies. It also ties in with the use of section 86 FSMA (which not only cross-refers to the Article 1(4) UK Prospectus Regulation exemptions, but also includes the EUR 8m exemption).* November 2021

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| 18. | <i>To be included with the legend on the front cover/inside front cover of base prospectus/offering circular.</i> | November
2021 |
| 19. | <i>To be included with the legend on the front of the final terms/pricing supplement for offers of notes that potentially constitute “packaged” products and where no UK KID will be prepared, or where the issuer wishes to prohibit offers to UK retail investors for any other reason.</i> | November
2021 |
| 20. | <i>If the programme includes a specific reference to Drawdown Prospectus, this should be reflected here.</i> | November
2021 |
| 21. | <i>Square brackets around this legend are only required in pro forma final terms/pricing supplement in base prospectuses/offering circulars.</i> | November
2021 |
| 22. | <i>Issuers may want to consider whether these legends should be included in retail programmes as well as wholesale programmes to enable the use of the wholesale final terms in relation to admission of securities to a specific segment of the London Stock Exchange’s main market under a retail programme.</i> | November
2021 |
| 23. | <i>Use “Furthermore, this” if this legend follows the corresponding EEA legend related to notes which are to be traded only on an EEA regulated market, or a specific segment thereof, to which only qualified investors can have access (set out in item 2.5 of Appendix A13). Otherwise, use “This”.</i> | November
2021 |
| 24. | <i>Because a UK Prospectus Regulation selling restriction is not required for issues of notes with a denomination of EUR 100,000 (or equivalent) or more, paragraphs (a)(iii) and (b) (which relate to the UK Prospectus Regulation public offer regime) do not need to be included for issues of notes with a denomination of EUR 100,000 (or equivalent) or more.</i> | November
2021 |
| 25. | <i>Because a UK Prospectus Regulation selling restriction is not required for issues of notes with a denomination of EUR 100,000 (or equivalent) or more, the third limb of the definition of retail investor (which relates to the UK Prospectus Regulation public offer regime) does not need to be included for issues of notes with a denomination of EUR 100,000 (or equivalent) or more.</i> | November
2021 |
| 26. | <i>The reference to supplementing a prospectus may be deleted in circumstances where no prospectus is being or has been published (including for admission to trading purposes) that could be supplemented. For instance, it may not be relevant in a standalone transaction where all offers are to be made on an exempt basis and the securities are to be listed on an exchange-regulated market such as the London Stock Exchange’s International Securities Market.</i> | November
2021 |
| 27. | <i>Insert desired wording, for instance “[date]” or “[date] or such later date as the Issuer may permit”.</i> | November
2021 |