LEXOLOGY®
Getting The Deal Through

Debt Capital Markets

in United Kingdom

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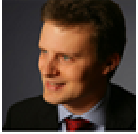

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MARKET SNAPSHOT

Market climate

What types of debt securities offerings are typical, and how active is the market?

In the United Kingdom, there has been a very active market for debt securities offerings for several decades. The particular features of this market are as follows.

Internationalism

Offerings of debt securities in the UK involve issuers and investors incorporated or established anywhere in the globe using London as a global financial centre to access the international debt capital markets. The success of the international debt capital markets within the UK has resulted in there being no meaningful domestic-only market.

Size

The investor pool in the UK for debt securities is among the deepest in the world. As of January 2019, according to data released by the London Stock Exchange (LSE), the value of debt securities admitted exceeds £1.65 trillion, and there are more than 14,500 debt securities from all over the world actively listed on the LSE's main market.

Sophistication

The full spectrum of debt capital markets products are offered in the UK. This spectrum ranges from plain vanilla senior fixed or floating eurobonds, issued either under a programme or on a stand-alone basis; to complex structured products such as asset-backed debt, covered bonds and derivative securities; to subordinated debt such as regulatory capital for banks or insurers and hybrid debt for corporates; to equity-linked debt such as exchangeable bonds, convertible bonds and warrants. There is also an active UK market in high-yield bonds, short-term money market instruments, loan participation notes, green bonds and other environment, social or governance (ESG) investments and private placements.

Wholesale rather than retail

The wholesale debt markets in the UK make up the vast majority of debt issued.

Range of issuers

Issuers that access the UK's debt capital markets include corporates, financial institutions and other regulated entities, sovereigns and municipalities and charities.

Regulatory framework

Describe the general regime for debt securities offerings.

The underlying principles of English law governing the debt capital markets in the UK remain the largely uncodified common law principles of contract law, trusts law and the law of negotiable instruments. The common law is overlaid by a UK statutory regime and in particular the Financial Services and Markets Act 2000 (FSMA) and related statutory instruments such as the Financial Promotions Order. This statute law is underpinned by regulation, in particular that contained within the Financial Conduct Authority (FCA) handbook (including the Listing Rules, the Prospectus Regulation Rules and the Disclosure and Transparency Rules) and binding guidance on these rules from the FCA.

Much of the UK's regulatory framework for debt capital markets is derived from EU financial services law, which applies across the European Economic Area (EEA) in the same way that it currently applies to the UK. At present, EU directives are required to be implemented into UK law and EU regulations are directly applicable in the UK. The UK's regulatory

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architecture is integrated into the EU regulatory architecture: in particular the Court of Justice of the European Union, whose judgments are binding in the UK, and the European Securities and Markets Authority, the European supervisory agency responsible for providing guidance on questions related to EU regulation, coordinating the supervision of securities markets by national competent authorities and drafting technical standards that make up the EU's single rulebook in financial services. Depending on Brexit developments, there may be significant changes to this regulatory framework in due course (see question 30). Issuers with securities listed on the LSE are also obliged to follow the rules and regulations of LSE. Many market participants voluntarily follow the recommendations of trade associations and in particular those contained within the International Capital Markets Association's Primary Market Handbook.

FILING AND DOCUMENTARY REQUIREMENTS

General filing requirements

Give details of any filing requirements for public offerings of debt securities. Outline any requirements for debt securities that are not applicable to offerings of other securities.

The EU prospectus regime requires an issuer to publish a prospectus in the case of either a non-exempt public offering of debt securities in the UK or an admission of debt securities to a regulated market in the UK. Further detail on exemptions is given in question 10. The FCA is the UK competent authority for the purposes of approving prospectuses, though prospectuses approved elsewhere in the EEA may be passported into the UK without requiring further approval by the FCA. An issuer will typically publish a prospectus either on its own website or on the LSE website, using the LSE's Regulatory News Service. An issuer is also required to file a prospectus with the UK's National Storage Mechanism.

An issuer that is exempt from the requirement to publish a prospectus may be required to publish listing particulars if the debt securities are admitted to the LSE's Professional Securities Market, which is within the UK's listing regime, but is a multilateral trading facility rather than a regulated market for the purposes of EU regulation. The LSE's International Securities Market is outside the UK's listing regime and is a multilateral trading facility for the purposes of EU regulation and, as such, an issuer is required to produce an admission particulars (the contents of which are regulated by the LSE itself rather than the FCA). In the case of a prospectus or listing particulars the issuer is required to prepare other administrative documents in connection with the FCA approval process, including checklists, confirmation letters in relation to sanctions compliance, contact details and publication announcements. There are no specific filing requirements for debt securities that are different from those of other securities.

Prospectus requirements

In a public offering of debt securities, must the issuer produce a prospectus or similar documentation? What information must it contain?

An issuer making a non-exempt public offering of debt securities in the UK is required to publish a prospectus. The contents of a prospectus are governed by the prospectus regime, but issuers also consider the expectations of the market.

The starting point for the contents of a prospectus is the general duty of disclosure contained within the Prospectus Regulation, which states:

In addition to complying with the general duty of disclosure, an issuer must also consider the specific detailed contents requirements set out in annexes to the regulation containing detailed disclosure rules relating to the EU prospectus regime (the PR Regulation). These annexes function as building blocks and the relevant annexes that an issuer must consider depend on the nature of the investors (it is assumed that if the denomination of the debt securities is greater

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than or equal to €100,000 that the investors will be professional) and the nature of the securities. The annexes contain disclosure items relating to both the issuer's business and also the debt securities themselves. As a general rule, the contents requirements for more complex debt securities or for those aimed at retail investors are more onerous than those for plain vanilla debt securities aimed at wholesale investors. The prospectus regime not only regulates the contents of a prospectus but also its style, requiring that it be 'easily analysable, concise and comprehensible'.

In addition to regulation, an issuer must also be mindful to ensure that its prospectus is prepared in accordance with guidance from the relevant regulators, including technical and procedural notes contained within the FCA's knowledge base and ESMA's questions and answers on prospectuses. The contents of a prospectus are also subject to market expectations, the requirements of investors and the recommendations of industry bodies such as the International Capital Markets Association. When an issuer comes to prepare its prospectus, it will therefore be well advised to consider the prospectuses of similar issuers or securities to ensure that its disclosure is consistent with market practice.

Documentation

Describe the drafting process for the offering document.

The prospectus regime requires an issuer to take responsibility for the contents of its prospectus and it will also have statutory and common law liability for its prospectus. While the managers are not required to take responsibility for the contents of the prospectus, they typically have their names on it and therefore have reputational reasons for being concerned with its contents. The managers may also have liability in certain circumstances. This means that the prospectus drafting process is in practice highly collaborative, drawing both on the issuer's greater knowledge of its business and also the managers' greater technical knowledge and market experience. Both sides will also lean heavily on their legal counsel for the drafting, in particular the more technical disclosure such as legends, selling restrictions and other rubrics designed to comply with regulatory requirements.

In practice the issuer will focus on the risk factors and the business description, drawing from its other public disclosures (such as annual reports and previously published prospectuses) in order to minimise the risk of inconsistent public disclosure and related liability. The managers will verify the disclosure in a series of procedures known as 'due diligence', including drafting sessions and written comments and questions on the disclosure. The intensity of the due diligence process varies in accordance with the relevant risk: a lower-rated issuer, or an issuer established in a non-OECD jurisdiction, or an issuer of junior securities will typically encounter a more onerous due diligence exercise than a higher-rated issuer that is familiar to the markets.

Which key documents govern the terms and conditions of the debt securities? Who are the parties to such documents? How can such documents be accessed?

The terms and conditions of the debt securities are set out within the trust deed (assuming a trust structure) or the fiscal agency agreement (assuming a fiscal agency structure). The parties to a trust deed are the issuer and the trustee, who has a fiduciary responsibility towards the bondholders under the trust. The parties to the fiscal agency agreement are the issuer, the fiscal agent and the paying agent. In the case of a fiscal agency structure, there will also be a deed of covenant in which the issuer makes certain undertakings directly to the bondholders. It is also market practice for the terms and conditions to be disclosed in full in the published prospectus (see question 3) and the relevant documents are usually available in hard copy at the offices of the agent or trustee and sometimes electronically on the issuer's website.

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Does offering documentation require approval before publication? In what forms should it be available?

A regulated offering or listing document such as a prospectus or listing particulars must be approved by the FCA before it is published. At a minimum, a prospectus or listing particulars must be published electronically.

An exchange regulated admission document such as an admission particulars must be approved by the LSE before securities may be admitted.

Authorisation

Are public offerings of debt securities subject to review and authorisation? What is the time frame for approval? What are the restrictions imposed, if any, on the issuer and the underwriters during the review process?

The prospectus requires approval, which occurs after an iterative review process in which the FCA raises questions on drafts of the prospectus, typically related to the specific contents requirements of the prospectus regime. Once the issuer has addressed all the FCA's questions the prospectus is approved. The FCA commits to reviewing the first draft of the prospectus within four clear working days and subsequent submissions within two clear working days.

Before the prospectus is approved, it is customary for the issuer and the managers to observe certain publicity restrictions ensuring that any information released in connection with the offering meets regulatory requirements. In the UK, the advertisement rules contained within the EU prospectus regime and the UK's domestic financial promotions regime regulate the way in which publicity materials related to an offering may be distributed. These ensure that the contents of publicity materials must be consistent with the prospectus and distributed to appropriate investors.

On what grounds may the regulators refuse to approve a public offering of securities?

If an issuer is unable to produce a prospectus that complies with the prospectus regime, the FCA may refuse to approve the prospectus. The FCA is also obliged not to admit the debt securities to the UK's official list unless it is satisfied that the listing rules are complied with.

The FCA also has a statutory strategic objective to ensure that markets function well, by protecting consumers, promoting competition and protecting financial markets. The FCA has the power to prevent a public offering of securities if the offering contravened the FCA's statutory objectives.

How do the rules differ for public and private offerings of debt securities? What types of exemptions from registration are available?

The prospectus regime contains certain exemptions from the requirement to produce a prospectus in the case of a public offers. The most common exemptions are:

- where the offer is addressed to fewer than 150 persons per EEA member state;
- where the offer is only addressed to qualified investors; and
- where the minimum denomination per unit of the debt securities is at least €100,000 or equivalent in another currency.

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Offers of debt securities that fall within one of these exemptions that are not admitted to trading on a regulated market may be considered private offerings.

Offering process

Describe the public offering process for debt securities. How does the private offering process differ?

The public offering process, timetable and documentation will depend on whether the offering is a stand-alone transaction or a drawdown under a debt issuance programme. The complexity of the transaction, market conditions and extent to which the issuer has a track record of securities offerings will all also impact the timetable.

A stand-alone offering will typically require approximately two months from mandate to closing. During the period from mandate to launch, the issuer and the managers together with their legal advisers will agree the transaction structure, negotiate the transaction documentation and progress the drafting and approval of the prospectus with the FCA. The transaction is launched when it is announced publicly and the issuer and the managers market the transaction to investors on the basis of either a preliminary prospectus or a roadshow presentation. Once sufficient interest has been generated in the transaction, the documentation has been agreed and the prospectus approved, the transaction can be priced and the subscription agreement signed. Typically four or five days are required between signing and closing. At closing, the conditions precedent are provided to the managers, the remaining transaction documents are signed, the notes are issued and the proceeds of the issuance are transferred to the issuer.

A drawdown under a debt issuance programme will involve a much shorter timetable since it will typically only require agreement of the terms of the issuance. In the case of a private offering in which no prospectus or listing particulars is required, the transaction timetable would typically be shorter and less complex because there would be no need to factor in the FCA approval process.

Since 2018, the offering process for both public and private offerings of debt securities in the UK has been regulated by the MiFID II product governance regime, which is directly applicable across the EEA. This regime imposes a number of obligations on MiFID II-regulated firms that advise on the issuance of bonds or are involved in the underwriting or placing of bonds, including an obligation to identify a target market for the bonds, specify investors for whom financial instrument is compatible and create a distribution strategy compatible with the needs of the target market.

Closing documents

What are the usual closing documents that the underwriters or the initial purchasers require in public and private offerings of debt securities from the issuer or third parties?

The usual closing documents are the trust deed and paying agency agreement (in the case of a trustee structure), fiscal agency agreement and deed of covenant (in the case of a fiscal agency structure), the global notes, legal opinions, auditors' comfort letters, closing certificates and payment and settlement instructions.

Listing fees

What are the typical fees for listing debt securities on the principal exchanges?

Issuers are required to pay fees to both the FCA and the LSE. FCA vetting fees for prospectuses for debt securities are £2,000. The LSE's admission fee depends on the face value of the securities and the type of issuer: the fees for Eurobonds, financial institutions and corporates (excluding supranational issuers) range from £3,280 to £6,515; and the

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fees for issuances under a programme (excluding supranational issuers) range from £395 to £4,790; the fees for supranational issuers range from £900 to £3650.

KEY CONSIDERATIONS

Special debt instruments

How active is the market for special debt instruments, such as equity-linked notes, exchangeable or convertible debt, or other derivative products?

There is a very active market for special debt instruments in the UK, including equity-linked notes and derivative products.

What rules apply to the offering of such special debt securities? Are there any accounting implications that the issuer should be aware of?

As described in question 4, the contents requirements for a prospectus depend upon the nature of the securities. In the case of special debt securities, specific additional disclosure will be required. Prospectuses for most equity-linked debt transactions, which are typically structured to convert into new shares, are required to include equity-level disclosure in relation to the issuer, including an operating and financial review, a working capital statement and a capitalisation and indebtedness table. In addition to disclosure issues, equity-linked debt transactions also need to consider whether or not statutory pre-emption rights need to be disapplied.

Prospectuses for derivative products will also need to include additional disclosure relating to the underlying.

Since 2018, certain packaged retail and insurance-based investment products may not be made available to retail investors without the publication of a key information document.

Special debt securities may also raise accounting issues that the issuer must consider. Hybrid securities that possess both debt and equity characteristics may present difficulties as to the appropriate classification (whether debt or equity). From an International Financial Reporting Standards perspective, IAS 32 provides guidance for the classification of securities as debt or equity.

Classification

What determines whether securities are classed as debt or equity? What are the implications for instruments categorised as equity and not debt?

The prospectus regime defines ‘equity securities’ to include shares, other transferable securities equivalent to shares and equity-linked securities. All those securities that are not equity securities are defined as ‘non-equity securities’. Under the prospectus regime the disclosure requirements for equity are more onerous than the disclosure requirements for debt, reflecting the level of risk associated with each kind of security. For example, both equity and debt prospectuses are required to contain risk factors, but risk factors for an equity prospectus relate to the profitability of the issuer and thus tend to be more detailed than risk factors for a debt prospectus that relate to the solvency of the issuer.

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Transfer of private debt securities

Are there any transfer restrictions or other limitations imposed on privately offered debt securities? What are the typical contractual arrangements or regulatory safe harbours that allow the investors to transfer privately offered debt securities?

Provided that secondary market trading in debt securities complies with the regulatory requirements of the MiFID II product governance regime and the PRIIPs regime, debt securities may be freely transferred in the UK. Other than in the case of some private placements, which are commercially similar to bank loans and designed as 'buy to hold' investments, there are no typical contractual limitations on the ability of investors to transfer privately offered debt securities.

Cross-border issues

Are there special rules applicable to offering of debt securities by foreign issuers in your jurisdiction? Are there special rules for domestic issuers offering debt securities only outside your jurisdiction?

No, the UK allows offers of debt securities by foreign issuers into the UK on the same basis as it allows offers of debt securities by UK issuers. There are no special rules for UK issuers that offer securities outside the UK.

Are there any arrangements with other jurisdictions to help foreign issuers access debt capital markets in your jurisdiction?

The prospectus regime provides a single harmonised framework for the content, format, approval and publication of prospectuses throughout the EEA and allows a prospectus approved in one EEA member state (the host country) to be passported into another EEA member state with few formalities other than the translation of the prospectus summary in certain circumstances. In practice, this regime is primarily used by retail issuers because wholesale issuers are already exempt from the requirement to produce a prospectus in the UK because of the €100,000 denomination exemption. This regime is likely to be impacted by Brexit.

Underwriting

What is the typical underwriting arrangement for public offerings of debt securities? How do the arrangements for private offerings of debt securities differ?

In a public offering of debt securities in the UK, it is usual practice for the managers to underwrite the bonds on a joint and several basis. This means that if any of the managers defaults, each other manager is liable to underwrite the defaulting manager's commitment. The subscription agreement specifies the principal amount to which each manager commits and how commissions and fees are to be distributed. Usually commissions and fees are distributed pro rata to each manager's commitment.

In certain circumstances, the managers will not underwrite the issuance but will agree to use best efforts or reasonable efforts to place the notes.

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How are underwriters regulated? Is approval required with respect to underwriting arrangements?

In the UK, underwriting debt offerings falls within the concepts of 'dealing in investments as principal', 'dealing in investments as agent' and 'arranging deals in investments', which are regulated activities under FSMA. No person may carry on a regulated activity in the UK unless they are an authorised person. Credit institutions and investment firms that are authorised by the FCA that intend to underwrite debt offerings require that these specific regulated activities are included within their permissions. Underwriting of debt offerings is also regulated by the MiFID II product governance rules.

Transaction execution

What are the key transaction execution issues in a public debt offering? How is the transaction settled?

Transaction execution issues vary considerably from deal to deal. Issues can be commercial or market-related (for example if the due diligence process reveals that the issuer's disclosure is unsatisfactory) or regulatory or technical (if the issuer is unable to comply with a requirement of the FCA). Transaction execution issues are more likely to arise in complex and innovative transactions or for debut issuers.

Transactions are usually settled on a delivery versus payment basis, a process under which the transfer of the proceeds and of the securities are made simultaneously on the basis of instructions given by the lead manager and the issuer.

Holding forms

How are public debt securities typically held and traded after an offering?

Public debt securities are usually represented by a global note, whether the note is in bearer form or registered form, in order to save the time and cost of printing definitive notes. For debt offerings where the notes are not offered to US persons, both bearer form and registered form are common. If there is a US offering, the notes will be in registered form to comply with US taxation requirements.

In certain limited circumstances, for example, if the issuer defaults or the clearing systems close down, the global note can be exchanged into definitive notes. The global notes are held on behalf of the clearing systems by an agent bank acting as common depository or common safekeeper. Investors hold their entitlement via a chain of intermediaries leading to a direct account holder at a clearing system, with trading effected via electronic account transfers.

Outstanding debt securities

Describe how issuers manage their outstanding debt securities.

Issuers manage their outstanding debt securities via a number of liability management techniques, including open market purchases, consent solicitations and tender and exchange offers.

Open market purchases involve the issuer using a broker to buy the debt securities from market participants. Depending on the terms and conditions of the debt securities, after purchase, the issuer may either hold the debt securities in treasury for subsequent reissuance into the market or cancel them.

Consent solicitations involve the issuer seeking to amend the terms of existing bonds by having a resolution passed at

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a meeting of bondholders. The process for bondholder meetings, including voting mechanics, notice periods and quorums is set out in the trust deed or the fiscal agency agreement. Typically trustees also have the power to amend the terms of existing bonds without bondholder consent to correct a manifest error.

Tender offers involve the issuer purchasing some or all of the existing debt securities for cash pursuant to a tender offer. The terms of the tender offer are set out in a tender offer memorandum sent to the bondholders. Typically the issuer seeks to incentivise participation in the offer by means of a participation fee or by a structure known as a Dutch auction wherein each bondholder specifies the price at which it is willing to participate and the issuer selects bondholders on that basis.

Exchange offers involve the issuer purchasing some or all of the existing bonds in exchange for new bonds with different commercial terms. The terms of the exchange are set out both in an exchange offer memorandum and typically also a new prospectus in respect of the offer and admission of the new bonds. Exchange offers tend to be extremely bespoke and reflect specific commercial considerations. For example, a distressed issuer that is restructuring its debt may seek to issue new bonds which amortise over a longer period. If a resolution is required, care should be taken to ensure that the interests of the minority bondholders that vote against the resolution are not abused.

REGULATION AND LIABILITY

Reporting obligations

Are there any reporting obligations that are imposed after offering of debt securities? What information would be included in such reporting?

The EEA's transparency regime (derived from the Transparency Directive) and market abuse regime (derived from the Market Abuse Regulation) impose ongoing reporting obligations on the issuer during the life of the bonds. The issuer must also comply with continuing obligations under the UK's listing regime, the rules and regulations of the LSE and any additional contractual reporting obligations set out within the terms of the bonds and the transaction documentation.

The UK has implemented the Transparency Directive into UK domestic regulation via the Disclosure and Transparency Rules in the FCA handbook. The transparency regime requires all issuers to publish periodic financial information including annual reports and issuers of low denomination debt also to publish half-yearly reports. Issuers are also required to publish information related to changes to the issuer's constitution and changes to the rights of holders.

As an EU regulation, the Market Abuse Regulation is directly applicable in the UK. The market abuse regime requires issuers to announce inside information that directly concerns the issuer and comply with a number of related record-keeping and procedural requirements. Inside information is information that is precise and not generally available that would likely have a significant effect on the price of the issuer's securities if it were made generally available. Inside information is further defined to mean information that a reasonable investor would be likely to use as part of the basis of his or her investment decision.

Liability regime

Describe the liability regime related to debt securities offerings. What transaction participants, in addition to the issuer, are subject to liability? Is the liability analysis different for debt securities compared with securities of other types?

A prospectus may give rise to liability under a number of different civil and criminal liability causes of action under statute or common law. There may be common law tortious liability for negligent misstatement where a person making

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a statement breaches the implicit duty of care owed by him or her. There may be statutory contractual liability for negligent misstatement under the Misrepresentation Act where an investor acted on an incorrect or misleading statement. Liability may also arise under the tort of deceit. FSMA also contains specific liability regimes for untrue or misleading statements in a prospectus and omissions from a prospectus.

The Fraud Act and FSMA set out a number of criminal offences related to market abuse and false representation with the intent of making a gain or causing a loss.

Given the broad range of potential causes of action, it is possible that, in addition to the issuer, the managers may be subject to liability for misleading prospectuses in certain circumstances. The liability analysis is similar for all types of securities.

Remedies

What types of remedies are available to the investors in debt securities?

The remedy available to the investor depends on the relevant head of liability. FSMA sets out a specific compensation regime payable to any person who suffers loss as a result of an untrue statement in a prospectus or the omission of information required to be included in a prospectus. If the investor is able to prove misrepresentation, he or she may be entitled to damages. The measure of damages will depend on the head of liability. Typically, damages in tort seek to put the claimant back in his or her original state before the tort, whereas damages in contract seek to put the claimant in the position he or she would have been in had the contract been performed on its terms.

Enforcement

What sanctioning powers do the regulators have and on what grounds? What are the typical results of regulatory inquiry or investigation?

Under FSMA, the FCA has a statutory power to impose a penalty on an issuer who has contravened any provision of the FCA handbook or FSMA. The FCA may also censure any person instead of imposing a penalty upon him or her. The nature of any penalty or censure tends to be extremely fact-specific and tailored to the particular circumstances at hand.

Tax liability

What are the main tax issues for issuers and bondholders?

Payments of interest on bonds may be made without deduction of or withholding for or on account of UK income tax, provided that bonds carry a right to interest and the bonds are and continue to be listed on a 'recognised stock exchange'. The LSE is a recognised stock exchange for the purposes of UK legislation.

Interest on money market instruments that have a maturity of fewer than 365 days may also be paid without withholding or deduction on account of UK income tax.

In other cases, and subject to the availability of another exemption, an amount must generally be withheld on account of UK income tax at the basic rate (currently 20 per cent) from any payments of interest on bonds that has a UK source. However, where an applicable double tax treaty provides for a lower rate of withholding tax (or for no tax to be withheld) in relation to a holder, HM Revenue and Customs can issue a direction to the issuer to pay interest to the holder without deduction of tax (or for interest to be paid with tax deducted at the rate provided for in the relevant double tax treaty).

Where interest has been paid under deduction for or on account of UK income tax, holders who are not resident in the

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UK may be able to recover all or part of the tax deducted under an appropriate provision in any applicable double taxation treaty.

UPDATE AND TRENDS

Key developments of the past year

Please provide any updates and trends in your jurisdiction's debt capital market.

30 Please provide any updates and trends in your jurisdiction's debt capital market (trends, product types, special issues, etc).

Brexit

On 23 June 2016, the UK held a referendum to decide on its membership of the European Union. The resulting vote was to leave, and the UK left the EU on 31 January 2020. Under the terms of the Withdrawal Agreement between the UK and the EU, the UK entered a transition period immediately subsequent to exiting the EU that will last until 31 December 2020. During the transition period, EU law related to debt capital markets will continue to be directly applicable in the UK. Until the long-term relationship between the UK and the EU becomes clearer, it is not possible to determine the impact that Brexit will have on the UK's regulatory framework for debt issuances. At the time of writing, the UK Government's position is that at the end of the of the transition period, the UK will leave the EEA single market for services.

While the referendum result might in due course have a profound impact on the UK's regulatory framework, to date market participants have not made radical changes to their debt issuance documentation or even shown a pattern of issuance behaviour that differs from that which existed prior to the referendum. A majority of issuers are including a Brexit-related risk factor in their prospectuses, describing both the geopolitical, macroeconomic and financial uncertainty associated with Brexit and also the specific impact that Brexit might have on the issuer's business.

Green and other ESG bonds

During 2019, there has been an increased trend in issuing green and other ESG bonds. Most green bonds are bond issues the proceeds of which are used to fund a range of environmental projects and form part of a wider kind of finance called environmental, social and governance finance. They are not currently subject to significant regulation, but some green bond issuers voluntarily choose to adhere to the ICMA's Green Bond Principles, which have four key components:

- use of proceeds;
- project evaluation and selection;
- management of proceeds; and
- reporting.

Social bonds are bonds the proceeds of which are used to fund projects with positive social outcomes. Some issuers voluntarily choose to adhere to the ICMA's Social Bond Principles. Sustainability bonds are bonds where the proceeds will be exclusively applied to finance or re-finance a combination of both green and social projects.

Benchmark reform and the transition from the IBORs to near risk-free rates

Benchmark reform and the transition from the interbank offered rates (IBORs) to near risk-free rates is a complex multi-year project impacting all financing products and all major currencies. Several issues with IBORs were identified following the financial crisis in 2007, leading to comprehensive benchmark reform which is ongoing. Broadly, the Financial Stability Board has recommended that authorities and benchmark administrators should reform and

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strengthen major IBORs and identify alternative risk-free rates and encourage the market to use them. The FCA has stated that from 2022, it will no longer compel panel banks to contribute to LIBOR.

New sterling and US dollar-denominated floating rate notes are increasingly being linked to SONIA and SOFR (the near risk-free rates for sterling and dollars, replacing sterling LIBOR and dollar LIBOR) and market conventions for documenting these near risk-free rates are developing. The future of Euribor is less certain, but it may be that in the future, market participants adopt €STR (the reformed near risk-free rate for euros). Market participants are also grappling with the question of long-dated legacy floating rate notes referencing LIBOR and the extent to which liability management exercises will need to be undertaken prior to the end of 2021.

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