FINANCIAL CONDUCT AUTHORITY

Consultation Paper

CP24/13**

Consultation on the new public offer platform regime

July 2024

How to respond

We are asking for comments on this Consultation Paper (CP) by **18 October 2024**.

You can send them to us using the form on our website.

Or in writing to:

Primary Markets Policy Team
Financial Conduct Authority
12 Endeavour Square
London E20 1JN

Email:
cp24-13@fca.org.uk

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When we make rules, we are required to publish:

- a list of the names of respondents who made representations where those respondents consented to the publication of their names,
- an account of the representations we receive, and
- an account of how we have responded to the representations.

In your response, please indicate:

- if you consent to the publication of your name. If you are replying from an organisation, we will assume that the respondent is the organisation and will publish that name, unless you indicate that you are responding in an individual capacity (in which case, we will publish your name),
- if you wish your response to be treated as confidential. We will have regard to this indication, but may not be able to maintain confidentiality where we are subject to a legal duty to publish or disclose the information in question.

We may be required to publish or disclose information, including confidential information, such as your name and the contents of your response if required to do so by law, for example under the Freedom of Information Act 2000, or in the discharge or our functions. Please note that we will not regard a standard confidentiality statement in an email message as a request for non-disclosure.

Irrespective of whether you indicate that your response should be treated as confidential, we are obliged to publish an account of all the representations we receive when we make the rules.

Further information on about the FCA's use of personal data can be found on the FCA website at: www.fca.org.uk/privacy.

Contents

Chapter 1

Summary

1.1 This consultation paper (CP) sets out our proposed rules for the new public offer platform regime, which will allow firms to facilitate companies making public offers of securities to investors outside public markets when raising more than £5m. These proposals relate to the new regulated activity created by the Public Offers and Admissions to Trading Regulations 2024 (POATRs). The POATRs will replace the current UK Prospectus Regulation. CP24/12 also published today provides further background on the POATRs and our proposed rules for admissions to regulated markets and primary multilateral trading facilities (MTFs).

1.2 At present, a company offering transferable securities to the public can raise capital of up to EUR 8m without triggering the obligation to publish a prospectus. This allows smaller businesses to raise capital without the need to have a prospectus approved. However, it leaves a gap in regulation which can allow potentially higher risk investments to be offered to the public with limited regulatory touch points (such as the financial promotion regime). The EUR 8m prospectus threshold has also acted as a 'cap' beyond which companies wishing to raise capital face a cliff edge of costs due to having to produce a full prospectus.

1.3 The POATRs and public offer platform regime follow the recommendations of the UK Listing Review in March 2021 and the findings of the Gloster Report into the failure of London Capital & Finance (LCF), with both subject to further consultations by His Majesty's Treasury (the Treasury). The new regime seeks to, on the one hand, allow more targeted regulation of offers of securities by companies where they are not being admitted to a public market, and on the other ensure robust regulation of offers of securities such as 'mini-bonds' given the higher risks and past losses experienced by investors.

1.4 The POATRs create a new regulated activity of operating an electronic system for public offers of relevant securities (a 'public offer platform' or 'POP'). Companies seeking to make public offers of securities outside a public market, to a broad investor base, and where the value of the offer is more than £5m, will need to do so via a POP. The FCA has powers to make rules applying to firms operating a POP and it is these rules which are the subject of this consultation. This new activity will supplement existing regulation, such as existing investment-based crowd funding that is already regulated. Firms wishing to operate a POP will either need to vary their permissions, or seek authorisation from the FCA.

1.5 Recognising that companies offering securities via a POP may have more limited track record and pose risks of information asymmetries, our proposed rules for firms operating a POP seek to balance two broad aims:

a. that investors receive appropriate protections against potential fraudulent offers and receive sufficient information on legitimate securities such that they can have confidence in these markets and can make informed investment decisions on the investments presented to them, and

b. that companies are able to raise capital efficiently and effectively from a broader investor base according to their needs

1.6 At the same time, we do not intend to shift investment risk from investors to POP operators, and consumers will remain responsible for their investment decisions and accepting a level of risk appropriate to their objectives. We also indicate how we propose to apply other areas of our existing rules to firms operating a POP, given they are likely to carry out other regulated activities. The rest of the CP summarises our proposals and sets out further detail and analysis supporting the changes.

1.7 We welcome responses to this CP by 18 October 2024. We are aiming to finalise rules for the POATR regime by the end of H1 2025.

1.8 We will need to consider what further time is required before the regime comes into force to enable firms to apply for permission to carry on the new regulated activity. It may be that a transitional regime can be adopted and we welcome views in response to this CP on potential preparation time prospective POP operators may need to meet our proposed rules. We will communicate further in due course our more detailed implementation approach and timing.

Summary of our proposals

1.9 In developing the regime for public offers made by means of POPs, we assume that POPs will most likely be chosen as a means of raising capital by earlier-stage and smaller companies. From an investor perspective, such companies will generally be characterised as having more uncertain prospects than established companies with securities admitted to trading on public markets and their securities may have limited liquidity. This means such securities are more likely to have a high-risk profile for investors and that we need to consider this in ensuring an appropriate degree of consumer protection.

1.10 At the same time, our proposals seek to ensure that regulation is proportionate for POPs to facilitate offers on behalf of issuers, to enable capital raising that may support business growth and have wider benefits to the economy. To minimise additional costs of the new regime, we propose to build upon existing requirements that already apply to authorised firms where possible.

1.11 As such, our proposals for POP operators focus on two broad elements:

a. bespoke rules and guidance which will be specific to firms who choose to take up the new permission to operate a POP (see chapter 4), and
b. how we propose to apply wider rules generally applicable to investment firms, or generally applicable to firms across our Handbook, which would likely already apply to those existing firms seeking to operate a POP due to their other regulated activities (see chapter 5)

1.12 With regard to the more bespoke rules specific to operating a POP, our proposals focus on three key areas:

- information gathering and due diligence carried out by POPs on prospective issuers and the securities being offered
- the specific disclosures provided to investors on an issuer and the security being offered, and
- the application of liability and redress in relation to the content of offers facilitated by POPs

1.13 In this context, POP operators will have a key gatekeeping role in deciding if a public offer should be made to investors (see further detail in paragraphs 3.3 and 3.4 below).

1.14 In relation to the wider application of our broader rule set, this includes, among others, considering our financial promotion rules, the Consumer Duty and the Consumer Composite Investment (CCI) disclosure regime, which will replace the current regime for Packaged Retail and Insurance-based Investment Products (PRIIPs), where relevant. (Please see HMT's Policy Note on the UK Retail Disclosure Framework, and the respective draft statutory instrument and DP 22/6 on the Future Disclosure Framework.)

1.15 We ask specific questions throughout on our proposals and welcome feedback, including on our related cost benefit analysis (CBA) set out in Annex 2. We will also be keen to engage with market participants and interested stakeholders during the consultation period to discuss views on our proposals.

Outcomes that we are seeking

1.16 As part of the new POATR reforms, POPs are instrumental to achieving effective, proportionate and more consistent regulation and oversight of capital raising in areas of the market currently subject to limited regulation. Thus, our policy objectives for this new regime are aligned with those of the POATRs and seek to ensure that:

- issuers can raise capital in an effective and efficient way
- investors have sufficient, reliable information on companies' securities to make informed investment decisions
- the regime is proportionate and minimises unnecessary costs
- there are fewer barriers to participation for retail investors, and
- consumer harm, including from fraud and misleading information, is mitigated

1.17 At a more micro-level, the FCA has the following specific key policy objectives that our rules should ensure that:

- sufficient due diligence checks are carried out on issuers, to assess their appropriateness and mitigate risks of fraud to promote genuine capital raising and support both market integrity and investor confidence
- sufficient and accurate information on the company and the securities being offered on the platform is provided to investors

- companies are able to raise capital effectively and efficiently but with appropriate checks in place to maintain scrutiny and transparency, and
- the regulatory burden (cost- and time-wise) of raising capital is proportionate to the capital raised, by replacing the obligation to publish a full prospectus for public offers applicable under the current framework with a more targeted set of rules

1.18 These policy aims are aligned with our statutory strategic objective to ensure that markets function well, and our operational objectives to protect and enhance market integrity, secure an appropriate degree of consumer protection and promote fair and effective competition in the interest of consumers.

1.19 Proportionate regulation should support companies raising capital and allow for an efficient allocation of productive capital across the UK economy, promoting competition and economic growth. Companies raising capital in this space may have more innovative, disruptive business models and ideas, and be capable of unlocking significant amounts of value. The expectation is that our proposals would create the conditions for them to finance their expansion more effectively, and, by doing so, positively contribute to fostering innovation in a way that is aligned with our secondary international competitiveness and growth objective.

1.20 At the same time, we want to ensure a high standard of transparency and consumer confidence in the market. Investors choosing to invest in such securities should do so on a well-informed basis and be appropriately protected against unexpected losses where POPs have failed to meet their regulatory obligations (eg by facilitating fraudulent offers), while accepting the risk of 'legitimate' losses from such investments, such as from business underperformance or failure. The policy proposals set out in this paper seek to achieve these complementary aims.

Our engagement in this area

1.21 We have engaged extensively in developing policy in this area, having published Engagement Paper 5 (EP5) as part of a series of Engagement Papers on the POATRs last year, and subsequently attended roundtables and received written responses to inform our thinking. Following this, we published a summary of feedback, including on POPs (chapter 6), in December 2023. Our proposals also benefited from the views shared by our statutory panels, in particular the Financial Services Consumer Panel and the Listing Authority Advisory Panel.

Summary of the cost benefit analysis of our proposals

1.22 We have considered the costs and benefits for the proposals presented in the CP, with our detailed analysis presented in Annex 2.

1.23 Overall, we consider that our proposals contribute, in a substantive way, to securing an appropriate degree of consumer protection and promoting market integrity.

1.24 We recognise that firms who choose to operate POPs will face costs associated with applying for authorisation and complying with our requirements. However, the benefits to investors from the level and quality of information they are expected to receive, according to our analysis, should offset the costs of complying with our requirements.

1.25 The benefits underlying our proposals are also expected to positively impact the UK economy more widely, as companies will have a more proportionate route to raise more capital and thus fund their business expansion. By proposing a more proportionate framework compared to other jurisdictions while also maintaining a robust gateway for public offers through the work of POP operators, the position and reputation of the UK as a financial hub is expected to be reinforced and attract more companies and funding activity, with the positive economic spill over this may entail.

Who needs to read this document

1.26 This document should be read by:

- companies who are considering making a public offer
- firms who may consider becoming POP operators (eg, crowdfunding operators, corporate finance firms, etc)
- investors
- investment advisors
- law firms advising on public offers
- accountancy firms
- other firms or professional bodies involved in public offers
- trade associations and groups representing any of the above, and
- academics and other stakeholders interested in capital markets

Measuring success

1.27 We intend to closely monitor the number of POP operators that decide to undertake the new activity, how many issuers use the platforms, and the number and value of offers being made. For that purpose, we propose to require specific reports from POP operators to be made to the FCA in key monitoring areas. We plan to consult on the detail of these reports at a later date.

1.28 These data will be instrumental for us to analyse the expected incremental ability of firms to scale their participation in the capital markets. Even though there are many factors influencing the ability of firms to raise capital, which go above and beyond our regulatory requirements, we expect our proposals to contribute to increases in both the number and magnitude of capital raises.

1.29 We also intend this regime to support companies that have the ambition to increase their presence in the capital markets can increase in size and graduate at a later stage of maturity to regulated markets or MTFs. Therefore, we will also monitor the exit or post-offer strategies that companies may choose to adopt, if any.

Next steps

1.30 We welcome responses to the questions in this CP by 18 October 2024.

1.31 Responses can be submitted via the form on our website or by e-mail to cp24-13@fca.org.uk. If responding by e-mail, pleasing indicate whether you wish your response to be treated as confidential and, separately, if you are content to be named as a respondent.

1.32 We are also keen to engage with market participants during the consultation period and requests for roundtables or meetings can also be made via the above e-mail address.

1.33 We will communicate further detail in due course as to our intended implementation approach and timing for this new activity. This will involve FCA systems changes and processes for applicants to apply to us, as well as engagement with the Government to repeal the UK Prospectus Regulation and fully commence the POATRs. We are considering these issues further in parallel to this consultation on the proposed rules.

Chapter 2

Background to this consultation

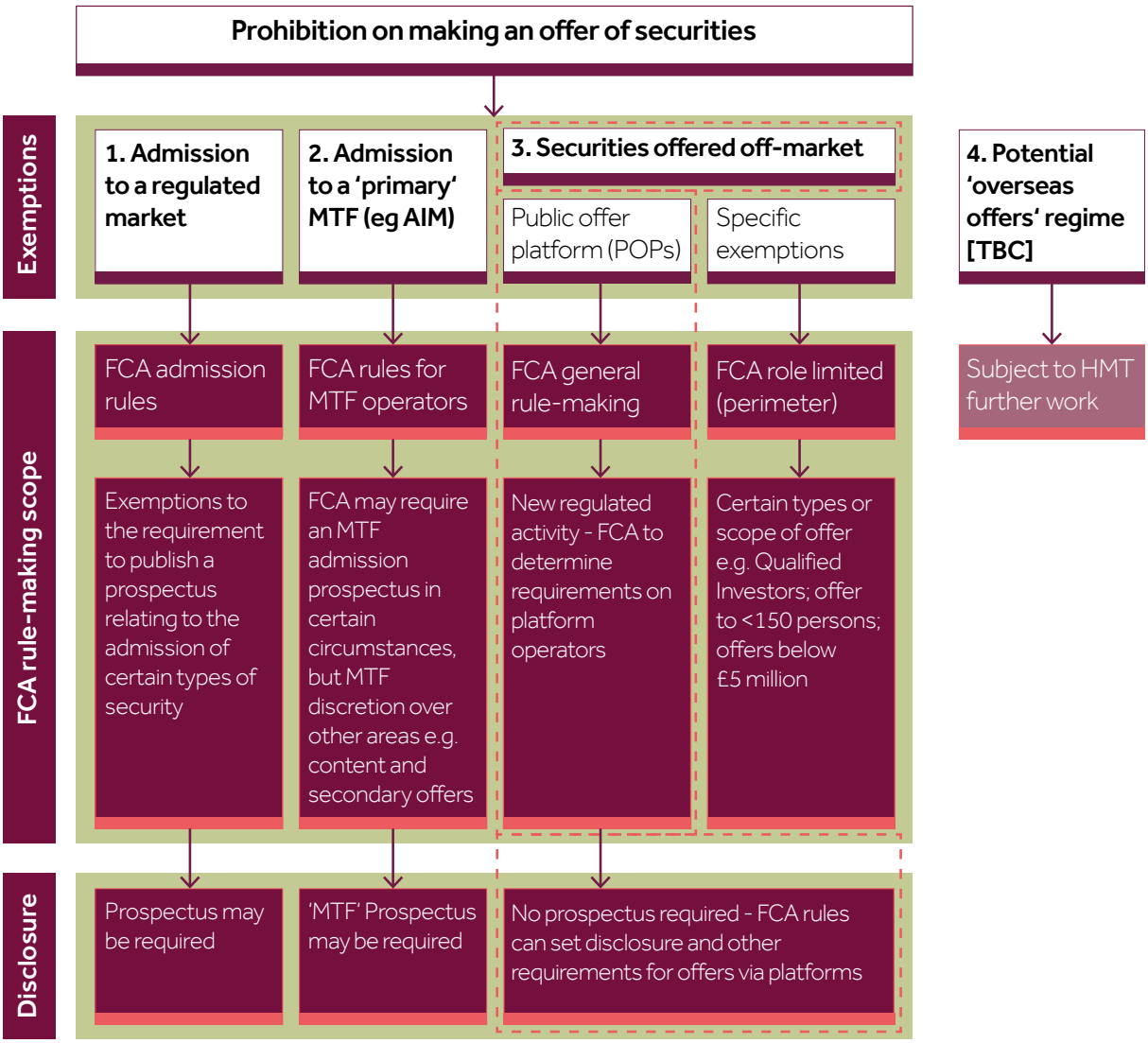
2.1 In this chapter we set out the background and context to our proposals. This CP shares some of the same background as the wider POATR framework considered in CP24/12 also published today. For a detailed description of the POATR framework, we refer to that CP. This chapter focuses on the background specific to the new regime for POPs.

The wider context of UK prospectus reform

2.2 The EU-derived Prospectus Regulation addresses the treatment of both admissions to trading and public offers under a common framework. This means that, in practice, either or both actions trigger the obligation (unless exempt) to publish a prospectus at a relatively low level of capital raising. For smaller and medium-sized businesses that seek seed funding or growth capital, this may impose disproportionate regulatory costs. This regulatory design has contributed to disincentivising capital raises above the monetary threshold at which a prospectus is required, potentially distorting companies' access to broader pools of capital to finance and grow their businesses.

2.3 Following the UK Listing Review and Treasury's UK Prospectus Regime Review, the Government legislated to create the new regime under the POATRs. This new regime is aimed at, among other things, simplifying the requirements for capital raising and, in practice, enabling smaller and medium-sized companies to benefit from the scaling opportunities that capital markets offer without the requirements associated with admitting securities to a regulated market or MTF.

2.4 Under the new POATR regime, this has been achieved by decoupling the regime for admissions to trading from that for public offers. The making of offers to the public is subject to a prohibition in Reg. 12 of the POATRs. This prohibition is subject to various exemptions (specified in Schedule 1 to the POATRs). This includes an exemption for offers not exceeding £5m over a 12-month period and offers made through a POP. Among others, offers of transferable securities where the relevant securities are, or are to be, admitted to trading on a regulated market or MTF are subject to a separate exemption. An overview of the broader POATRs regime is presented in the figure below.



2.5 CP24/12, also published today, provides more detail on the wider legislative framework underpinning the POATRs and our powers to make rules.

The Gloster Report

2.6 Our proposals also need to be considered in the context of the Gloster Report. Among other things, this made recommendations about the operation of the regulatory regime and the way in which the regime could be extended to cover issues of non-transferable securities. Public offers of 'mini-bonds' have led to significant investor losses in recent years. The Gloster Report recommended that regulation should be extended to offers of non-transferable securities. The report suggested two ways in which this could be achieved. The first was by extending the regulated activity perimeter so that the issuance of non-transferable securities was made a regulated activity; the second was to bring public offers of such investments within the scope of the prospectus regime (as it was at the time).

2.7 Consequently, the Government consulted on options for how to regulate offers of non-transferable debt securities (eg, mini-bonds). This ultimately concluded that any reform should be considered as part of the Government's wider Prospectus Regime Review to encourage a coherent regulatory framework. As such, the combination of a general (ie, comprising both transferable securities and non-transferable debt securities) prohibition on public offers with the exemption for offers made via a POP under the POATR framework therefore sought to ensure such offers would become subject to the scrutiny of a firm directly authorised by the FCA and subject to our rules and oversight.

Previous market engagement

2.8 The proposals presented in this CP benefited from feedback to our outreach and engagement with the market which we initiated through the publication of a series of Engagement Papers (EP) in 2023. One of these – EP5 – set out our thinking around the POP framework. In it, we proposed three key focus areas for new rules:

- expectations on the due diligence to be carried out by POP operators prior to facilitating an offer of an issuer's securities
- appropriate disclosures to investors on an issuer and its securities, and
- the appropriate liability and redress linked to these obligations

2.9 Most respondents favoured our overall approach. There were, however, mixed views on how to set requirements in different areas. These included views on how prescriptive or onerous our requirements for POP operators should be having regard to the level of risk that it is appropriate to expect investors to accept, particularly in terms of the liability of POP operators linked to any rules we set on due diligence and communicating information to investors. This feedback has informed the proposals we set out in this consultation.

Market context for public offers outside regulated markets or trading venues

2.10 The existing crowdfunding sector represents an important baseline for our proposals. There are currently 27 crowdfunding platforms operating in the UK. At present, the majority of fundraising through these platforms is well below the £5m threshold. This is in part due to disincentives arising from the EUR 8m threshold beyond which issuers are required to publish a prospectus and incur the associated costs, and in part due to the fact that crowdfunding is typically used by companies in the earlier stages of their evolution.

2.11 As highlighted in the Impact Assessment carried out by the Treasury, the architecture of the previous regime led to a clustering effect around the threshold limits. This indicates that firms may be raising a suboptimal amount of capital due to regulatory constraints. However, with the removal of the requirement to produce a prospectus and the option to instead make public offers via a POP, we may observe an increase in capital raising in this space.

2.12 The POATR legislation brought non-transferable debt securities (including mini-bonds) within the scope of the POATRs. We note, however, that the market for these securities has declined significantly since a number of high-profile failures (such as that of London Capital and Finance), and our ban on the mass-marketing of speculative minibonds.

Wider FCA work on consumer investments

2.13 While POPs originate from the POATR regime and broader capital markets reform initiatives, there are also clear links to other consumer investment markets and regulated activities. As noted above, we expect POPs to predominantly engage retail investors. It is likely that firms, either incumbents or new entrants to the market, choosing to undertake the activity will provide other investment services to retail clients, such as arranging deals in investments (which includes investment-based crowdfunding activity below the current prospectus threshold). Alternatively, boutique corporate finance firms that currently place securities privately with qualified investors may take the opportunity to facilitate offers on behalf of issuers to a wider investor based by becoming a POP.

2.14 Therefore, we have also considered how the activity of operating a POP relates to other FCA initiatives linked to our consumer investments strategy. We address these in chapter 5 outlining how we envisage applying cross-cutting or general investment activity-related rules to POPs conducting retail market business, including the Consumer Duty. The CCI regime and assimilated parts of MiFID II under the Smarter Regulatory Framework (SRF) are also a relevant part of the wider work the FCA has been doing on consumer investments. For more information on the SRF, please consult the Treasury's Policy Papers on Building a smarter financial services framework for the UK, the Delivery Plan and the Next Phase, as well as FCA's Future Regulatory Framework (FRF) Review.

Secondary market facilities

2.15 The new regulated activity is designed as a primary market mechanism to regulate the facilitation of initial offers of securities by an issuer. In this context, investors need to be aware that there might be limited potential for them to exit their investments or it might take a significant amount of time for them to be able to do so.

2.16 This is one key consideration that should be factored into their decision to invest in a security that has been offered via a POP.

2.17 Nonetheless, we acknowledge that some firms may wish to offer 'secondary trading' type facilities alongside their operation of the POP. If that is the case, firms operating a POP will also need to have the appropriate permissions in place as relevant to the type of 'facility' they wish to offer, eg whether a bulletin board type of arrangement, or if their 'secondary market' meets the definition of an MTF. Firms should consider our final guidance on the trading venue perimeter published last year (PS23/11) where relevant.

2.18 We have been working with the Treasury to develop a regulatory sandbox for Private Intermittent Securities and Capital Exchange Systems (PISCES). Should the new Government choose to continue this work, this would be a further potential option for firms wishing to offer 'secondary trading' type facilities.

How it links to our objectives

Consumer protection

2.19 A key consideration of our proposals is how to best mitigate undesirable outcomes for consumers participating in public offers of (what are likely to be) illiquid and higher-risk securities. Acknowledging that this segment of the market is inherently risky, we are proposing specific rules, among others, on due diligence and communications of information in order to mitigate potential information asymmetries between investors and issuers of securities.

2.20 In this sense, we propose to adopt a robust approach that ensures that consumers receive quality information that equips them to make decisions that are effective, timely and properly informed. Our approach and proposals are intended to give consumers confidence that the information they receive about securities offered has been analysed with proper care and expertise by a firm authorised and regulated by the FCA. This is in line with FCA's objectives to ensure an appropriate degree of consumer protection. In considering what degree of protection for consumers is appropriate, we are required to have regard to the general principle that consumers should take responsibility for their decisions. As such, our proposals seek to impose proportionate obligations on POP operators which recognise the responsibility of consumers to assess whether participation in the market is appropriate for them, in particular in light of their own risk appetite.

Market integrity

2.21 Our proposal to supplement our existing rule framework with targeted requirements aims at ensuring a high level of transparency and fair operability in this market. For a segment of the capital market that is concerned with private (ie, unlisted) companies, fostering appropriate information standards, both quantitative and qualitative, is essential for its proper functioning. This is particularly relevant where investors will need to correctly price their securities in the absence of a market-based price discovery mechanism and assess, based on their own judgement, whether the value proposition of a given public offer is aligned with their financial objectives. Overall, this will enhance market integrity and mitigate the risk of the UK financial system being used for a purpose connected with financial crime.

Effective competition in the interests of consumers

2.22 Our proposals are intended to facilitate competition between financial service providers (ie, POPs operators) in a way that is expected to benefit investors by means of enhanced information and service standards. The proposals that we make are intended to allow firms scope to determine the precise detail of the service they provide and, therefore, the fees that they charge. This will allow them to compete by reference to, among other things, the quality of their due diligence and disclosures. Competition between POP operators will also be aligned with issuers' interests, as they will be able to choose among competing POPs to select those that offer the best and most cost-effective services.

2.23 This regulatory environment is thus expected to have a spillover effect on the various operators of POPs, so that competition among them results in better services that are aligned to the needs of issuers and investors.

Secondary international competitiveness and growth objective

2.24 We have considered extensively how our proposals facilitate the relative international competitiveness of UK capital markets. We believe that the Government's new approach to facilitating public offers of securities through the introduction of POPs will reduce the costs of raising capital, with knock-on benefits to the UK economy. We are proposing additional rules on due diligence and disclosure to reduce the risk of scams and fraud, and ensure investors are able to make well-informed decisions about their investment choices. In this way, our proposed rules should build confidence in the new activity, enabling issuers to access a wider pool of investors.

2.25 We believe this is an important step towards making the UK capital markets more attractive for companies considering raising capital, thus contributing to retaining and strengthening the position of the UK as a financial hub in the context of global capital markets.

2.26 We have also discussed above the potential positive strategic benefits of our proposals on innovation. Based on the current profile of issuers using crowdfunding platforms to raise capital, we expect that POPs will be used primarily by smaller and medium-sized business. Through increasing confidence in this market, our proposals should improve firms' ability to successfully raise capital, and therefore support the growth and survival of smaller firms. In this way, our proposals promote innovation in the UK economy with wider potential long-term effects on economic growth.

Environmental, social & governance considerations

2.27 In developing this CP, we have considered the environmental, social and governance (ESG) implications of our proposals and our duty under s. 1B(5) and 3B(c) of FSMA 2000 to have regard to contributing towards the Secretary of State achieving compliance with the net-zero emissions target under section 1 of the Climate Change Act 2008 and environmental targets under s. 5 of the Environment Act 2021.

2.28 Overall, we do not consider that the proposals will materially contribute to those targets. While not a specific policy aim, we are conscious that companies seeking to contribute to good environmental outcomes, including the transition to net zero, may be small and looking to scale at pace, meaning that the POP framework may be of considerable benefit to them. Similarly, it may help investors who have a preference to contribute to positive environmental outcomes to find suitable and potentially innovative investments. We would value respondents' views on this point and will keep this issue under review during the course of the consultation period and when considering whether to make the final rules.

Equality and diversity considerations

2.29 We have considered the equality and diversity issues that may arise from the proposals in this CP.

2.30 Overall, we do not consider that the proposals materially impact any of the groups with protected characteristics under the Equality Act 2010 (in Northern Ireland, the Equality Act is not enacted but other antidiscrimination legislation applies). But we will continue to consider the equality and diversity implications of the proposals during the consultation period and will revisit them when making the final rules.

2.31 We welcome any feedback to this consultation on our assessment.

Chapter 3

The general approach to the new public offer platforms regime

3.1 In this section we set out our general approach to the proposed main elements of the public offer platforms regime. More details of these proposals can be found in chapters 4 and 5 of this CP, as well as in the draft rules in Appendix 1.

General overview

3.2 As explained above, our general proposed approach to the new POP regime can broadly be broken into two elements, namely:

- specific requirements on due diligence and disclosures we propose to apply to POP operators, and
- rules that are applicable to firms more generally, including investment-based crowdfunding platforms or that result from a specific categorisation (eg, MiFID or non-MiFID firms)

3.3 As part of their gatekeeping role, we propose POP operators have regard to the outcomes we intend to promote in this market when carrying out due diligence on issuers. In this context, we intend that POP operators act in a way that is consistent with promoting a high level of market integrity, including by preventing financial crime.

3.4 We also propose that POP operators foster consumer protection, in particular by ensuring that investors can make informed and effective investment decisions, aware of the underlying risks and potential benefits and prevent offers from being made when they can reasonably foresee harm to clients materialising.

3.5 There are other obligations that will be applicable to POP operators in the Handbook, including the Consumer Duty in the context of retail business. Further to these, where a firm is already undertaking or planning to undertake other regulated activity alongside POP activity, other regulatory requirements are likely to apply.

Why we are proposing bespoke requirements for POPs

3.6 POPs are intended to represent a new paradigm on how companies can raise capital and interact with investors where securities will not be admitted to a regulated market or MTF. The new framework we are proposing needs nonetheless to be balanced with the needs for adequate investor protection and robust market integrity standards.

3.7 Among other things, capital raising regimes have been traditionally shaped around specific thresholds that represent an important quantitative reference for the purpose of setting regulatory requirements. The general prohibition on making public offers above £5m to a broad investor base is an example of this regulatory design in the POATRs.

3.8 This means that, unless we set out specific requirements, public offers of significant value (ie, above £5m) could be made to investors via a POP without triggering specific obligations of providing them with a comprehensive set of disclosures (such as a prospectus, as required for regulated markets and MTFs).

3.9 That is why we are proposing specific new rules for POPs to supplement the baseline requirements that apply to other investment activities, such as investment-based crowdfunding. By doing so in a targeted and proportionate way, we aim to promote market confidence by setting appropriate regulatory standards under which UK markets operate and deliver the above-described outcomes.

How we present draft rules for POPs

3.10 For bespoke rules relating only to the activity of operating a POP, we are proposing to create a new Chapter 23 in our Conduct of Business Sourcebook (COBS). Chapter 4 of this CP describes the rules and guidance we are proposing for this new COBS material.

3.11 Beyond these bespoke new rules for POP operators, other elements of the Handbook will also be relevant. These other provisions will apply in the ordinary way through their own application provisions. We set out how these broader elements of our regulatory regime are proposed to apply in chapter 5. The draft rules can be seen in Appendix 1.

Future authorisation and supervision approach to POPs

3.12 Throughout the implementation process of the new regulated activity of operating a POP, we will consider further our supervisory approach to the regime and our process for authorising or handling applications to vary permissions for firms wishing to operate a POP.

3.13 In this context, we are also assessing the systems changes needed to the FCA register and regulatory reporting processes, which we anticipate as a result of the new activity and our rules. As mentioned elsewhere, we intend to consult on ancillary and consequential changes to our rules in these areas in due course.

3.14 We expect to finalise rules by late Q2 2025. However, we will allow time for firms to prepare before we bring rules into force. We will also consider transitional arrangements to facilitate a smooth cutover to the new framework, alongside the Government's process to repeal and replace EU assimilated law, in particular the UK Prospectus Regulation.

3.15 We would welcome views in response to this consultation on any minimum implementation period firms feel they would need if they were to consider applying to undertake the new activity of operating a POP, in order to be able to comply with our standards, based on the proposed rules we set out below.

Chapter 4

Specific requirements for public offer platforms

4.1 In this chapter we set out in detail our proposed specific requirements for POPs. As mentioned above, these proposals should be read together with the following chapter and related Handbook changes which set out the other parts of the FCA's Handbook that will apply to firms operating a POP.

4.2 The areas discussed in this chapter set out our approach with regards to the following:

- the due diligence we propose to require POP operators to carry out
- the information relating to an offer that we propose should be provided to investors by POPs, and
- how legal liability and redress may apply to POP operators and issuers, including how they may link to the Financial Services Compensation Scheme (FSCS) and Financial Ombudsman Service if coverage were to be extended

Due diligence requirements

4.3 Public offer platform operators are expected to perform a gatekeeping function prior to communicating issuers' public offers. This means that POPs will perform an important role in determining whether to facilitate a public offer of securities by reference to the factors which we propose to set in our rules.

4.4 In this context, POP operators are expected to carry out due diligence on the issuers and securities that wish to make a public offer through a POP. This requirement is instrumental to delivering appropriate market integrity and investor protection, in particular as it may be challenging for investors to find publicly available information about the issuer.

4.5 We consider that it is particularly important to address potential information asymmetry and guard against potential fraud due to the larger size offers POPs will be able to facilitate under the new framework. That is why we propose having a more targeted regulatory intervention as opposed to relying solely on existing regulatory requirements, such as currently apply to investment-based crowdfunding (whereby offers are typically below the current prospectus threshold, and most frequently less than £2m).

4.6 The design of the proposed regime is intended to ensure POP operators gather sufficient information to determine whether to facilitate particular public offers, having regard to the factors that we propose in our rules. Thereafter, the due diligence requirements that we propose are intended to enable POP operators to ensure that investors receive sufficient and accurate information to enable them to make a properly informed decision whether to invest. More specific requirements also have benefits in terms of consumers' rights of action, which we discuss further below.

4.7 POP operators should, nonetheless, adopt a holistic approach and not interpret these specific requirements in isolation from other relevant provisions in the Handbook. One illustration of such approach would be, for instance, POP operators undertaking sufficient due diligence such that they are able to meet, not only the specific requirements which we propose, but also their obligations under the cross-cutting requirements for distributors set out in the Consumer Duty or the relevant product governance rules, as applicable.

4.8 Our requirements on due diligence can be divided into two sequential steps. The first step refers to the information that POP operators are required to gather from issuers; the second step to the assessment that we require them to make on the information gathered, including a creditworthiness assessment. This last step is one of the main elements that will inform POP operators, in the light of their gatekeeping functions, if it is appropriate to facilitate a public offer.

Proposals on information gathering to be undertaken by POPs

4.9 Our proposals aim to set a robust standard of information collection when POP operators are deciding whether to facilitate a qualifying public offer. They prescribe a minimum set of information that must be collected by a POP prior to facilitating a public offer. This is underpinned by an outcomes-based approach which seeks to ensure that POPs gather the information they need to determine whether it is appropriate to facilitate a public offer and to be able to present the information an investor needs to make an informed decision whether or not to invest.

4.10 These minimum information requirements refer to:

- General information on the issuer, including on its identification and relevant contacts, persons capable of exercising significant influence over the issuer, key individuals, the issuer's group (if any), its online presence, its business model, sustainability characteristics, intangible assets (such as, IP and manufacturing processes), risk factors, litigation, material contracts.
- Financial information, such as financial accounts and reports (including at group-level) and information on the financing structure, relevant fees likely to impact the return on the investment and the issuer's creditworthiness.
- Information on the public offer, such as the target amount, public offers previously or concurrently made, the target public offer close date, the rights attached to the security (including how they relate to other securities and how the offer impacts the issuer's shareholder structure), use of funds, tax reliefs available for investors, the duration of the term and interest payments (for debt securities).
- For closed-end collective investment undertakings (ie, a closed-end fund), a description of the investment policy, investment strategy and objectives, a summary of the portfolio and the latest net asset value (NAV) and details of any entity or persons involved with managing the investments.

4.11 For a more detailed description of the minimum information requirements we are proposing, please see paragraph 4.38 on the content of the disclosure summary POP operators will be required to prepare and the full list of information requirements in the draft rules at Appendix 1.

4.12 These detailed core information requirements should be taken as a starting point and not a proxy for sufficiency of information. POP operators will only meet their due diligence obligations if they gather all the information deemed sufficient to determine whether it is appropriate to facilitate the offer and for investors to make an informed investment decision, according to the circumstances of each issuer and public offer. The level of information needed in any given case may therefore be wider than these core requirements.

4.13 Among the various factors that could lead to a need for additional information beyond that prescribed in our proposed rules, POP operators should take into account the specificities and complexity of the public offer and its underlying security and the industry in which the issuer operates and its business model.

4.14 The due diligence process should be carried out having regard to the purpose of the specific requirements for POPs, being to protect the integrity of the market and to secure an appropriate degree of protection for consumers (by ensuring that POPs do not facilitate offers which may cause foreseeable harm and that investors are equipped to make informed investment decisions).

Question 1: **Do you agree with our proposed approach to have an outcomes-based approach supplemented with minimum information requirements for the information gathering step of the due diligence process?**

Question 2: **Do you agree with the minimum information requirements we are proposing? Are there others you would like us to consider?**

Our proposals on how POPs should assess information collected on issuers and the securities

4.15 For this market to achieve the desired outcomes, it is crucial that investors receive reliable information. Hence, we expect POP operators to carry out a reasonable verification exercise on the information collected under the information gathering step of the due diligence process. We acknowledge that the ability to assess the completeness and accuracy of information and the degree of reliability that it is possible to derive from it, depends, to a significant extent, on the nature of such information. For this reason, we have framed our rules by reference to an over-arching standard of reasonableness, which, requires POP operators to take reasonable steps when discharging their verification duties.

4.16 We propose to introduce a distinction between factual and non-factual information. Given their different natures, we are proposing different expectations with respect to the approach that POP operators should follow in order to assess the different types of information that POPs receive from prospective issuers.

4.17 For factual information, POP operators should carry out an accuracy and completeness assessment, based on obtaining appropriate corroborative independent evidence. This is to ensure that investors are able to make investment decisions based on information that is materially accurate and complete.

4.18 Non-factual information cannot be tested against the same standard. Therefore, in this case, we propose to require a plausibility assessment. Under such a standard, POP operators would be required to assess the plausibility of the relevant information in the light of the circumstances of the issuer and the public offer. We consider that 'plausibility' is an appropriate standard by which to assess non-factual information in that it refers to the likelihood of claims and expectations being realised.

4.19 In order to assist with such an assessment, we propose to highlight in our proposals some factors that may be relevant when considering the plausibility of non-factual information:

- the issuer's characteristics, in particular aspects referring to its business model, size, resources and leadership personnel
- the market and industry in which the issuer operates
- circumstances associated with the actual capital raise, including its purpose, size and foreseeable impact on the issuer, and
- whether the non-factual information is consistent with other information provided to the POP operator

4.20 It is important to note that a reasonableness standard underpins our detailed requirements for POP operators, in particular on how, or the extent to which, POP operators are expected to conduct certain actions. This will be particularly relevant to POP operators' assessment of non-factual information, where a firm will need to take reasonable steps to satisfy itself as to the potential for forward-looking claims to be realised, for example by reference to supporting factual information and a consideration of the accuracy of underlying assumptions. We also propose a provision which would allow a POP operator to place reliance on information provided by experts unless the POP operator had reason to doubt the independence or credibility of the expert or the accuracy of the information.

4.21 Furthermore, we consider that ensuring the plausibility of non-factual information is an integral element of ensuring that communications and financial promotions relating to offers are fair, clear and not misleading. We propose making specific reference to the need to consider plausibility in the context of the POP regime because of the particular importance of forward-looking claims and expectations in offers of securities. However, this is not to suggest that in other contexts a consideration of the plausibility of claims should not represent a fundamental part of any assessment of whether a communication is fair, clear and not misleading.

4.22 We acknowledge that it will not be possible to extensively define in our rules what plausibility looks like in every situation. This will require an appropriate level of judgement, aligned with an outcomes-based approach, from POP operators in the context of each public offer. In order to aid POP operators forming their judgement in this area and to ensure consistency with other requirements, we propose to make guidance that

clarifies that the plausibility assessment for non-factual information needs to be made in the context of the overarching fair, clear and not misleading standard underpinning communications made by POPs.

4.23 This calibrated approach aims at proposing a proportionate role for POP operators in a market segment we deem highly risky given, among other things, the uncertain future prospects of issuers.

Question 3: **Do you agree with the standards and expectations we are proposing for POP operators to analyse the information they gather on issuers?**

Question 4: **Do you agree with the proposed distinction between factual and non-factual information, and the implications this has in the relevant assessment standard?**

Proposals for POPs to assess an issuer's creditworthiness

4.24 Under the new public offers and admissions to trading regime, it is prescribed that investors who choose to invest in non-equity securities in regulated markets and MTFs should receive information to enable them to make an informed assessment of the creditworthiness of the issuer (see Reg. 23 (3) of the POATRs).

4.25 We similarly propose to require an assessment of creditworthiness in relation to both public offers of equity and non-equity securities communicated through POPs. We propose that this is carried out as part of the due diligence we require POPs to undertake on issuers before facilitating a public offer.

4.26 The rationale for the proposed extension of this assessment to issuers of equity securities lies in the characteristics of this specific market segment. Since we expect it to be particularly attractive to smaller and medium-sized businesses, we consider that the continuing viability of the issuer's business, and its general ability to make payments when they become due, is a key focal point for both equity and non-equity investors.

4.27 It is important to note that such assessment does not represent an attestation or assurance on the ability of issuers to meet all their future obligations. Losses stemming from business failures arising from the materialisation of liquidity and insolvency risks will be borne by issuers (and ultimately their respective security holders). Nor does this assessment amount to a 'credit rating' analysis as would be seen in wholesale debt markets, which would be disproportionate to the nature and offer sizes of these securities.

4.28 In order to aid POP operators carrying out this assessment, we propose to set out in our rules the factors that must be considered in carrying out the creditworthiness assessment, namely:

- the issuer's revenue level, diversity of sources of revenue, its operating and cost structures and its current liabilities
- the risk profile of the issuer or the guarantor, if any, and

- any other circumstance of which the POP operator may reasonably be expected to be aware, such as adverse and impactful market conditions

4.29 For the purpose of meeting the requirements we propose above, POP operators can use information either directly obtained from the issuer or from third-party providers, such as credit reference agencies. This includes the possibility of relying on a creditworthiness assessment compiled by an expert, provided the firm has no reasons to doubt the expert's credibility or independence, or the assessment's accuracy.

Question 5: **Do you agree with our proposed approach to the creditworthiness assessment we expect POP operators to carry out on issuers?**

Assessing whether the issuer and its securities are appropriate to be offered to the public

4.30 As part of their gatekeeping role, we propose to require POP operators to assess whether it is appropriate to facilitate the specific offer of securities by an issuer.

4.31 In this context, we propose that a POP operator has regard to the following factors:

- if it has been provided with all the required information (or if any omission can be reasonably explained)
- if it has received sufficiently detailed and consistent information so as to be able to understand the issuer's business model and the key risks of the investment, and to communicate the information to clients adequately so that an investment decision can be made
- fitness and propriety of the issuer and key individuals
- if there was information that it sought to verify but was unable to or that was considered implausible
- the issuer's creditworthiness, as detailed above
- compliance of proposed disclosures with regulatory requirements, including financial promotions rules, and
- any other factor of which the POP operator is, or ought reasonably to be, aware that may influence its assessment of the appropriateness of the issuer or public offer

4.32 It is important to note that the residual criterion should be considered in the light of the nature of the POP's clients and the purposes of the due diligence associated with the gatekeeping role described in para 3.3 and 3.4 above.

4.33 In assessing whether it is appropriate to facilitate a particular offer, a POP operator may consider materiality as a reference criterion. The circumstances of the specific issuer and public offer may be relevant to a POP operator's judgement on whether a particular factor is sufficiently material to affect its assessment of the appropriateness of facilitating a public offer. In considering materiality, we propose to require POP operators to consider the following elements:

- the importance of the information for the purpose of enabling the POP operator to understand the issuer's business model and associated risks and of enabling clients to make an informed investment decision
- the relevancy of the factor in the context of the characteristics of the issuer or the public offer, and
- if, despite the materiality of any finding, the POP still feels able to communicate the public offer in a way that allows investors to clearly understand the potential impact or relevance of such matter

4.34 We also emphasise the need for the materiality of a specific piece of information to be considered on a standalone basis or in aggregate with other aspects of the offer, as its relevance may vary depending on the context.

4.35 In order to deliver on the outcomes and objectives we envisage for this market segment, we propose to require POP operators to refrain from facilitating public offers if they cannot satisfy themselves that the conditions set out above are met, or until they have undertaken further enquiries so as to satisfy themselves that it is appropriate to facilitate the offer.

Communication of information to investors

General considerations

4.36 We want POP operators to communicate information about the due diligence carried out on issuers and the public offer in an adequate and sufficient way to investors. In doing so, we note that they will need to:

- of have regard to the overriding purposes of the regime as set out in paragraphs 3.3 and 3.4 above, in particular that investors are provided with an adequate and reliable level of information so as to make informed and effective investment decisions
- comply with our rules on communications with clients under COBS 4, including the fair, clear and not-misleading standard set out in COBS 4.2.1, and
- take into account the Consumer Duty's consumer understanding outcome when communicating to retail investors under PRIN 2A.5

The disclosure summary

4.37 In this context, we propose that POP operators are required to provide investors with a disclosure summary. This summary is intended to give investors a clear description of the issuer and the public offer. In order to reflect this appropriately, we consider that it should comprise the following elements:

- a summary of the information provided by the issuer and verified by the POP operator (paragraphs 4.38 – 4.43). Please see new paragraphs 4.40 and 4.41 below.
- a description of the checks and verifications undertaken by the POP operator, including on the plausibility of non-factual information and the creditworthiness assessments (paragraphs 4.15 – 4.29 above), and

- the output from the POP operator's assessment of whether it is appropriate to facilitate the issuer and securities being offered (paragraphs 4.30 – 4.35 above)

4.38 We expect the bulk of information in the disclosure summary to refer to the most material aspects pertaining to the issuer and the public offer. In this part of the disclosure summary, investors should therefore be able to find a comprehensible set of disclosures that we propose need to cover, at least, a summary of the following aspects (when applicable):

General information
• Current and previous names of the issuer, including trading names
• Information on the issuer's incorporation, in particular the date and place of incorporation and the registration number
• Contact details, in particular address of registered office and registered email address
Information on:
◦ Issuer's shareholders with a 10% or more interest in the issuer's or its parent's capital or voting power
◦ Any other person able to exert significant influence over the management body of the issuer or its parent
• Information on key personnel, including directors and senior management, in particular on their academic background, professional experience and fitness and propriety
• Relevant issuer's group information, including its relative position within the group structure
• Details on the issuer's online presence (eg, website and social media)
• A description of the business model, including information on the products and services offered
• Information about sustainability characteristics material in the context of the issuer's business model
If material in the context of the issuer's business, information about:
◦ Any patents or licences
◦ New manufacturing processes
• Key risk factors related to both the issuer and the securities
• Details on relevant pending or likely litigation, including both at issuer- and group-level
• Details about material contracts, including both at issuer and group level
Financial information (so far as relevant in the context of the specific issuer)
• The most recent financial accounts and reports, including whether they have been audited
• A description of the issuer's financing structure, in particular its liabilities, sources of capital and previous equity or debt capital raisings
• A description of fees, commissions or other charges due by the issuer to third parties, which may adversely impact the envisaged rate of return on the securities
• The most recent group-level financial accounts
• Information on the creditworthiness of the issuer and guarantor, if any

Information on the public offer and the securities
• The target amount to be raised under the public offer
• The amounts raised (or likely to be raised) through other public offers:
◦ Made in the last 12 months
◦ Concurrent to the offer that is being facilitated
• The target deadline for the completion of the public offer
• A description of:
◦ The rights attached to the securities being offered
◦ How such rights relate to other types or classes of securities of the issuer
◦ The impacts of the offer on the issuer's shareholder structure
• The envisaged use of proceeds
• Description of any tax reliefs available for investors, if relevant
• Where a debt security is being offered:
◦ the term, and
◦ any interest payments
When the issuer is a closed-end collective investment undertaking:
◦ The investment policy, investment strategy and objectives
◦ A summary of the portfolio
◦ The latest NAV
◦ Details of any entity or persons involved with managing the investments

4.39 In order to make risk factors as relevant as possible for investors, we are proposing guidance that reinforces the need for these disclosures to be made having regard to the specificity of the issuer and the offer, their materiality and likelihood of materialisation.

4.40 We are also proposing guidance on the factors and circumstances we consider might be relevant for POP operators assessing the fitness and propriety of an issuer's key individuals. These may, for instance, relate to previous convictions for criminal offences, adverse findings (or settlements in civil proceedings) regarding misconduct, fraud or the discharge of managerial functions, managerial involvement in previous insolvency or winding-up situations, previous disqualifications from acting in a managerial capacity or bankrupt declarations. Ultimately, it will be for the POP operator to use its reasonable discretion as to the information to be gathered having regard to, amongst other things, the overall purpose of the rules (including the protection of market integrity) and the relevance and importance of particular matters in the context of the issuer's business and the proposed public offer.

4.41 The details of our proposals on these two areas can be found in the draft instrument in Appendix 1.

4.42 We also propose to carve out proprietary or commercially sensitive information from the disclosure summary. However, we expect POP operators to consider if it is appropriate and possible, to provide relevant such information in an appropriately summarised form.

4.43 Further to the above, the disclosure should also present any additional information that the circumstances so require for investors to fully understand the investment proposition (please see paragraphs 4.9 and 4.12 – 4.14 above). We are not, however, prescribing a particular format in which this information should be provided. Such information should be provided as far as relevant and with consideration to the proportionality of disclosure relative to the materiality for an investor's ability to make an informed decision, on which a POP operator will need to exercise judgement.

4.44 The disclosure summary is not intended to remove the need for the investor to undertake their own critical assessment of the offer but to provide them with an appropriate level of information to take an informed decision whether to participate in the offer. Equally, an investor who is not separately receiving advice will need to undertake their own analysis, and potentially some further due diligence, to determine whether the investment meets their investment objectives and risk tolerance. The imposition of the POP in the public offer process does not negate the need for consumers to take responsibility for their investment decisions.

Question 6: **Do you agree with our proposed approach to how we expect POP operators to communicate the result of their due diligence with investors?**

Additional information POPs need to provide to investors

4.45 Alongside the disclosure summary, we propose that POP operators also make available to investors:

- the most recent financial accounts of the issuer, including whether they have been audited
- terms and conditions, and other contractual documents
- the current funding level of the offer as it progresses, and
- any other information needed for investors to make an informed decision whether to participate in the offer.

4.46 In the case of the financial information referred to in the previous paragraph, we propose that this can be provided through a link to the relevant webpage of the issuer in the Companies House database.

4.47 When facilitating public offers, we propose to require POP operators to publish a comprehensive statement on their approach to the due diligence requirements and how they manage conflicts of interests between issuers and investors. This statement will need to be easily accessible by investors. For this purpose, POP operators may choose to signpost investors to where they can find their policies on these two matters.

4.48 We are also proposing that POP operators clearly indicate to investors that due diligence was undertaken with respect to a specific public offer in its respective disclosure summary. In doing so, they will need to link this confirmatory statement to the statement on their approach to the due diligence (or due diligence policy) referred to in the previous paragraph. It is important that this is done in a clear and prominent way so as to bring this information to the investor's attention.

4.49 The communication of public offers will necessarily involve the communication of financial promotions. We propose to include guidance within COBS 23 that reminds POP operators of key obligations under COBS 4 when communicating or approving financial promotions. Of particular importance in this context are the requirements applicable to restricted or non-mass market investments under COBS 4.12A or COBS 4.12B respectively. Firms will need to ensure they comply with the detailed requirements in those sections when communicating or approving relevant promotions.

4.50 In line with the above and as further detailed below, the proposed regime for the new regulated activity of operating a POP does not affect the application of financial promotion rules.

Question 7: **Do you agree with the additional information we are requiring POPs to present investors with, including our proposed confirmation statement?**

Equality of information principle

4.51 We want to ensure that all investors that choose to invest in public offers made via a POP receive fair treatment and are not adversely affected by different levels of information being made available among investors. In this sense, we propose guidance so as to remind POP operators that material information disclosed to a specific group of investors needs to be disclosed to all other investors (Reg. 13 POATRs).

4.52 This principle is also the basis for some of our proposals below, particularly when there is a material change to relevant information and POP operators are expected to bring those changes to the knowledge of both investors that have already signed up to invest and those that may still wish to do so.

New information before the public offer closes and withdrawal rights

4.53 We only expect the initial information disclosed by POPs to be updated if:

- there is a subsequent offer (in which case the POP operator could rely on the information previously collected as long as it remains up-to-date and accurate), or
- there are material changes to, or material mistakes or inaccuracies identified in, the information initially disclosed while the offer is still open to the public

4.54 We are proposing to require certain contractual terms to be in place between POP operators and issuers to ensure any relevant updates are communicated by the issuer to the POP operator during the period when the offer is open on the platform. This would include, for instance, if the issuer identified any changes to, or mistakes in, the information provided to in the POP operator, for example, as a result of a significant event occurring following that initial disclosure.

4.55 Alternatively, we could make no specific rules in this area and give POP operators and issuers more flexibility in how they ensure that the POP operator is able to comply with the regulatory requirements we are setting in this area. However, we would be concerned at the potential information asymmetry that could arise in this case, while

recognising a POP operator can only reasonably assess the information provided to it by an issuer at a point in time.

4.56 Should new information emerge while the public offer is still open, either by virtue of a significant new piece of information or change to the information, or a material mistake, inaccuracy or omission that is detected, we consider that investors should be granted a right to withdraw from a previous agreement to buy or subscribe to the relevant security. This approach broadly mirrors withdrawal rights typically granted to investors who purchase securities in regulated markets. Under our rules, it would be for the POP operator to provide these withdrawal rights and ensure its contractual arrangements with issuers enabled it to do so. We are not proposing to impose rules directly on issuers with respect to withdrawal rights under Reg. 32 of the POATRs but would particularly welcome views of stakeholders on this approach.

4.57 In this context, we propose that investors are informed of their right to withdraw the acceptance of the offer, the date before which they will be able to exercise such right (ie, until the relevant offer closes) and the steps they need to take so as to exercise such right.

4.58 Furthermore, we also propose that POP operators must act upon the new information and consider whether such information may impact its previous assessment on whether it is appropriate to facilitate the offer of an issuer's securities. Eg, if information was so material that the POP operator felt the offer was no longer appropriate to be made at all, they should withdraw it – although such cases may be exceptional. More routinely, we propose that POP operators discharge a duty to bring the revised information to investors' attention, primarily by means of an update to the disclosure summary and to any additional information or documents previously made available to investors, followed by a notification to those investors that have already agreed to purchase the affected security.

Question 8: **Do you agree with our proposal to require specific contractual terms between POP operators and issuers to ensure any relevant, material change to information while an offer is open is communicated to the POP operator?**

Question 9: **Do you agree with our proposals to grant withdrawal rights should a material change in information be disclosed prior to an offer closing, and that POP operators should make investors aware of any significant change in information regarding the securities they agreed to purchase?**

Post-offer role for POP operators

4.59 At this point in time, we are not proposing to introduce disclosure requirements on POP operators to the market once an offer is closed. We do acknowledge, though, that this may create a significant asymmetry of information between issuers and security holders, which may ultimately affect the ability of the latter to assess the ongoing performance and prospects of their investment.

4.60 Therefore, we would like to seek views on whether we should consider post-offer requirements for firms operating a POP. It is important to note that such role could give rise to a range of levels of engagement, such as:

- providing the issuer's contact details (as we propose under the minimum information requirements) and relying on investors to establish communication with issuers (minimalist approach)
- requiring POP operators to update investors when a material event occurs, in which case similar contractual terms to those proposed for the period while the offer is still open could be considered (medium approach), or
- requiring that POP operators provide a permanent venue (eg, 'forum' type of structure), where investors could raise questions and ask for extra information visible to all security holders (maximalist approach)

4.61 We recognise some of these may raise different challenges for POP operators. For example, a reliance on contractual terms placed on prospective issuers by a POP operator's terms and conditions may not guarantee that an issuer will continue to provide timely information to the POP operator after an offer is complete, whereas a 'forum' for investors to communicate with issuers may add operational costs. In this area, POP operators would also need to have regard to our commentary on secondary market trading facilities above.

Question 10: **Do you agree with our current proposal that POP operators will have no ongoing disclosure obligations relating to an offering once it has closed? If you do not agree with it, which of the options described above would you favour and why. Please provide views or estimates with regards to costs and benefits to POP operators and investors.**

Specific policies and procedures relating to POPs

4.62 We are also proposing specific systems and controls requirements, which we consider are key to implementing and achieving the desired outcomes of our rules. In this context, we propose to require POP operators to:

- have adequate policies and procedures so as to comply with our requirements
- have appropriate policies and procedures approved by their governing body or senior personnel
- periodically review (at least on an annual basis), and if needed take appropriate steps to adjust the policies and procedures
- maintain an adequate record of the due diligence carried out on each issuer and public offer, including the basis on which the POP operator satisfied itself that it is/is not appropriate to facilitate the offer, and
- adopt appropriate governance arrangements and internal controls so as to ensure compliance with the above

4.63 In order to ensure high standards of information that is provided to investors, we also propose that POP operators have appropriate internal checks and governance mechanisms in relation to assessing whether the issuer and the public offer are appropriate to be made to investors (as described above) and producing the disclosure summary.

4.64 For the policy objectives to be achieved as described elsewhere, and for POP operators to be able to properly carry out their gatekeeping function, it is important they have access to an adequate level of information. Therefore, we propose that POP operators have in place the following contractual terms and conditions with issuers:

- POP operators need to be provided with the relevant information so as to properly carry out the due diligence on the issuer
- POP operators need to be made aware in case there is a concurrent, or will be, capital raising taking place while the public offer is open,
- POP operators need to be made aware of material changes to the issuer's business or the information already provided to them (as referred above), and
- issuers need to grant withdrawal rights to investors in the circumstances set out in the previous sub-section

4.65 As referred to above, we would also welcome any views on whether it would be preferable to not prescribe these contractual terms and conditions and let POP operators and issuers regulate their relationship in a way that is consistent with the requirements we are proposing.

Question 11: **Do you agree with the policies and procedures we are proposing for POP operators? Are there any other requirements in this area you consider relevant, including any other contractual terms you would favour us prescribing in our rules?**

Liability regime

General overview

4.66 We intend to propose a proportionate liability regime for the new POP regime, which reflects the important gatekeeping function of POP operators. As previously noted, the companies raising capital via POPs are expected to pose significant risk to investors due to the stage of business growth they might be in, their uncertain prospects and the inherent information asymmetries between off-market companies and investors. These circumstances need to be factored in to our rules. We also recognise the potential conflicts of interest for POP operators, eg if they are incentivised to simply admit as many offers as possible onto the platform given they will typically earn revenue from fees levied on the issuers.

4.67 On the one hand, we want to avoid a liability regime that is viewed as commercially unviable and which would therefore stifle capital market activity. However, lack of compliance with the requirements and the harm investors may suffer as a consequence need to give rise to appropriate redress opportunities for consumers.

4.68 With this in mind, we want to make sure that investors receive sufficient, high-quality information, without holding firms operating POPs liable for harm they could not reasonably foresee having made appropriate enquiries into an issuer and the securities being offered.

4.69 We are inviting views on whether investors (and potentially issuers) should have access to the Financial Ombudsman Service and the Financial Services Compensation Scheme in relation to the activities of firms in operating POPs. This is detailed further in chapter 5 below.

The proposed liability regime for public offer platforms

4.70 Our expectation is that a POP operator acts according to what can be reasonably expected of a prudent firm when complying with our rules. Beyond our proposed granular requirements (eg with respect to information gathering), this will afford firms a degree of discretion in how they comply, including when collecting and assessing information on an issuer and its securities and communicating information to investors, as described above.

4.71 When POP operators fall short of the standards we are proposing, investors may have a private right of action under Section 138D FSMA and POP operators may need to compensate investors' losses.

4.72 There will be occasions, though, that business failure and investor loss could not have been anticipated, even when acting according to the standards we are proposing. By way of example:

- if the POP operator complied with our requirements in a reasonable way, then it would be less likely to face successful action for damages on the grounds of contravention of FCA rules, or
- if a POP operator adopted poor procedures for complying with our requirements, and as a result a likely failure was not detected or key information or risks were not communicated to prospective investors, then there should be reasonable grounds for investors to claim compensation.

4.73 In some cases, POP operators will need to take specific actions in order to comply with our rules. This is particularly relevant in the situations we described in paragraphs 4.56 to 4.58, which broadly refer to when new information becomes known by the POP while the offer is still open and it is discharged with duties so as to bring it to investors' knowledge.

4.74 The outcomes we wish to promote also inform how we are proposing to calibrate our rules. For example, in the standards we are attaching to the assessment of non-factual information throughout the due diligence process, the degree of reliance that POP operators can place on statements produced by experts or external circumstances from which POP operators can infer the level of creditworthiness of a given issuer.

4.75 We intend to confer an adequate margin of flexibility to POP operators to confidently deal with the challenges of carrying out due diligence on a multiplicity of issuers, whose future prospects and value propositions can only be ultimately judged by investors themselves according to their risk appetite.

4.76 We consider that basing POP operators' liability to pay compensation on the contravention of our rules, which in turn were designed so as to reflect the above-mentioned concerns, is the most proportionate and balanced way of conciliating market growth objectives with high market integrity and investor protection levels we seek to see in this space.

4.77 In this sense, the calibration of our rules represents a key aspect to avoid shifting the risk of business failure from investors to POP operators, while promoting a proportionate accountability for POP operators whenever they fail to undertake an appropriate level of due diligence or deliver the appropriate information to the market, both in terms of quantity and quality of information.

Question 12: **Do you agree that our proposal on liability strikes the appropriate balance between investor protection and market development objectives? If not, please explain why and what you would change.**

The liability regime for issuers

4.78 The liability architecture that we are proposing for POP operators is complemented by the availability of common law remedies that may be available to investors to seek compensation from issuers in case of wrongdoing (eg, in cases of insufficient, false, or misleading information, or material omissions).

4.79 Issuers using POPs would not, themselves, be subject to our direct regulation. We are not proposing to make specific designated activity rules applicable to issuers under Reg. 17 POATRs at this time, electing instead to regulate offers made by means of a POP through the imposition of requirements on POP operators. In any event, an investor could not bring a complaint to the Financial Ombudsman about an unregulated issuer and there is no equivalent to section 138D FSMA in the POATRs. However, POP operators may agree contractual arrangements with issuers that help manage potential liability.

4.80 In any case, it is also important to note that offences pertaining to misleading statements or impressions (under sections 89 and 90 of the Financial Services Act 2012) with respect to the securities being offered through POP operators are relevant to issuers.

Question 13: **Besides what you may have mentioned when answering the previous questions, do you identify any additional aspect we should consider in the context of the new regulated activity?**

Voluntary offers

4.81 As described above, the new regulated activity of operating a POP will only be relevant to public offers with a total consideration greater than £5m over a 12-month period, since below this amount offers are generally exempt from the prohibition of public offers under the POATRs. At this stage, we do not propose to prevent firms operating a POP

platform from also being able to communicate public offers below the £5m threshold ('voluntary offers') (or indeed within any of the other exemptions in the POATRs such as to qualified investors).

4.82 However, since such public offers which are not made within the exemption in paragraph 13 of Schedule 1 to the POATRs will not have to be made under the rules applying to POPs, there will be fewer detailed safeguards for investors as compared with those they could expect for offers over £5m.

4.83 Our proposed approach is to allow such offers to the public to be made by means of firms also operating as a POP, provided that they are clearly identified as being subject to a different regulatory treatment. In relation to such offers, we propose that POPs identify the exemption to the general prohibition on public offers of securities.

4.84 We also propose that such offers display a prominent risk warning stating that they are not subject to the same regulatory requirements as those above £5m. In order to give a complete picture of the role undertaken by the POP operator when facilitating voluntary offers, we propose that the risk warning includes a link to information on its approach to due diligence on public offers of securities under which such securities are offered.

4.85 The new regulated activity of operating a POP gives us, nonetheless, the opportunity to foster consistency, both in terms of market integrity and investor protection, in how capital is raised. We therefore welcome views on whether issuing guidance applicable to firms facilitating sub-£5m public offers that they should have regard to the obligations we are proposing for POP operators, in particular in terms of the due diligence they should undertake and the way they should communicate with investors, is desirable. We consider that the following three options could be considered:

a. do not have guidance in this regard and allow public offers below and above the threshold to operate under different regulatory standards
b. only issue guidance directed to POPs communicating voluntary offers, or
c. issue guidance to all firms communicating sub-£5m public offers, potentially comprising POPs, investment-based crowdfunding and corporate finance firms

Question 14: **Do you agree with our proposed approach to voluntary offers where they may be made by a firm also operating as a POP?**

Question 15: **Do you favour the issuance of guidance for firms facilitating sub-£5m public offers to have regard to the rules we are proposing? If so, should that guidance be directed only to POPs or also other types of firms (eg, investment-based crowdfunding and corporate finance firms)?**

Chapter 5

The interaction between the public offer platforms regime and wider Handbook rules

General considerations

5.1 POP operators will also need to comply with baseline rules in our Handbook besides those described in the previous chapter.

5.2 In this chapter we highlight the areas of the Handbook we deem most relevant to all interested parties in the new regulated activity, and particularly prospective POP operators.

5.3 This will mean firms that are undertaking POP activities, even if standalone, will be subject to provisions across the FCA Handbook, including:

- threshold conditions, which firms are required to meet at the point of authorisations and on a continuing basis
- systems and controls requirements, which include the Senior Managers and Certification Regime-related provisions
- overarching Principles for Businesses
- the Consumer Duty, and
- relevant conduct of business requirements, as set out in the Conduct of Business Sourcebook (COBS)

5.4 With respect to conduct of business requirements, it is important to note that we are proposing to make clear that these are applicable to POP operators, regardless of whether they operate from an establishment in the UK or overseas. This is because the regulated activity is concerned with offers of securities to the public in the UK and so we consider our rules need to apply wherever there is such an offer.

5.5 In order to be consistent with our approach to how we regulate other investment-related activities, we are also proposing to include the new POP regulated activity under the concept of 'designated investment business'.

5.6 As mentioned in chapter 4, we expect that it would be unusual for a firm to purely undertake the new regulated activity of operating a POP. Our understanding of the new regulated activity is that it is concerned with providing the means by which a qualifying public offer may be made. The making of a public offer refers to the communication of information on the securities to be offered and the terms on which they are offered. To the extent that POPs also facilitate transactions in securities offered, for example, we expect that firms will also require permission for relevant arranging and/or dealing activities. We therefore consider it likely that a POP operator will both want to communicate those offers and then undertake other regulated activities, such as arranging (bringing about) deals in those investments.

5.7 In these situations, POP operators will also need to comply with rules relevant to the other regulated activities they may carry out. In practice, this means that the relevant regulatory framework for each POP operator will depend on its specific business model and therefore on the different regulated activities they may also undertake.

Question 16: **Do you agree with our approach that we would expect firms to have to comply with relevant wider provisions?**

MiFID and non-MiFID investment activities

General overview

5.8 The regulatory framework applicable to prospective POP operators will be determined by the specific business model adopted by each operator. As mentioned above, we generally expect the new regulated activity to be carried out alongside other regulated activities – which may be MiFID or non-MiFID activities.

5.9 We do not regard this new activity as MIFID business, as per the 'investment services' definition and the nature of the service being the communication of public offers. However, POP operators may carry out other regulated activities, some of which may be MIFID business. For example, if a POP operator also facilitates transactions in transferable securities offered, it may be carrying on regulated arranging and, in so doing, the MiFID-scope service of receiving and transmitting orders. Existing authorised firms will likely already be complying with the relevant rules deriving from either MiFID or non-MiFID rules.

5.10 We recognise that different firms will have different business models and will need to consider which regulated activities they undertake and, therefore, which rules apply. This approach is intended to give flexibility to firms to conform their business models the way they deem preferable.

5.11 We recognise that different requirements can apply for firms undertaking similar regulated activities depending on whether the firm's activity is viewed as MIFID or non-MIFID business.

5.12 An applicant firm will need to confirm at the authorisation gateway whether it considers itself a MiFID or non-MiFID firm. This will determine the regulatory framework applicable and which rules and standards apply.

5.13 Below we have identified three key areas where different configurations of POP business models may lead to different regulatory treatments:

- Senior Management Arrangements, Systems and Controls Sourcebook (SYSC)
- Prudential Sourcebook for MiFID Investment Firms Sourcebook (MIFIDPRU) or Interim Prudential Sourcebook for Investment Businesses (IPRU-INV)
- Product Intervention and Product Governance Sourcebook (PROD)

Systems and controls

Firm categorisation

5.14 We expect POP operators to identify the relevant rules applicable to their regulated activities under various FCA sourcebooks.

5.15 One of the important consequences of categorisation of the POP operator as either MiFID or non-MiFID firm is how systems and controls rules (ie, mainly Chapters 4 to 10 of SYSC) will apply. If firms are considered MiFIDPRU investment firms then they will also be common platform firms for the purposes of applying SYSC rules.

5.16 It is important to note that under our SYSC rules, the requirements applicable to common platform firms apply to a firm's whole business, regardless of whether it is classified as MiFID or non-MiFID business.

5.17 If a firm operating a POP is not a common platform firm, then it will likely fall within the residual category of 'other firms' for the purposes of applying SYSC. SYSC rules are applied in a more limited way to such firms, as set out in column B of Table A in Part 3 of SYSC 1 Annex 1. In practice, this means that certain provisions will apply as rules to common platform firms but only as guidance to firms in the residual category.

Remuneration incentives rules

5.18 We think all firms, whether MiFID or non-MiFID, should meet the same requirements in relation to remuneration incentives. We are therefore proposing that these should apply to all POP operators and be based on the approach currently in place for MiFID firms in 19F.1 of SYSC. This will mean that POP operators cannot be remunerated in a way that could potentially conflict with their duties to act in the best interest of platform investors, including by means of inadequate remuneration arrangements that could improperly incentivise the offer of certain investments compared to others.

Question 17: **Do you agree with our proposals on applying existing systems and controls rules as applicable to firms' regulatory status as a MiFID or non-MiFID firm?**

Question 18: **Do you agree with our proposal to broadly apply the same remuneration incentive rules for both MiFID and non-MiFID firms operating a POP?**

Prudential requirements

5.19 The classification of the operator as a MiFID or non-MiFID firm also has a substantive impact on the prudential standards POP operators must meet.

5.20 The absolute minimum capital requirement for a MiFID investment firm is £75,000, whereas non-MiFID arrangers, by way of comparison, are subject to an absolute minimum capital requirement of only £10,000.

5.21 When considered in isolation, the new regulated activity will be considered a non-MIFID activity. Therefore, we think it is consistent to propose a baseline set of prudential requirements akin to those applicable to arrangers under IPRU-INV Chapter 3. This said, and in order to address the potential for harm we identify in this area, we propose that the minimum capital requirement under IPRU-INV 3 is increased from the standard £10,000 to £75,000 for firms operating a POP.

5.22 This adjustment, in line with the 'same risk, same regulation' principle, will allow us to align the capital requirements we expect to see in place whenever firms operating POPs are, by virtue of other regulated activities they carry out, classified as MiFID firms – thus bringing a firm into scope of the prudential requirements under the MIFIDPRU sourcebook, rather than IPRU-INV 3.

5.23 A firm that is subject to the MIFIDPRU sourcebook should consider the potential for harm arising from the new regulated activity of operating a POP as part of its overall assessment under the internal capital adequacy and risk assessment (ICARA) process detailed in Chapter 7 MIFIDPRU. In the event that POP operators are only carrying out non-MiFID business, then they should consider the potential for harm and the adequacy of their financial resources in line with Finalised Guidance FG20/1 on Assessing Adequate Financial Resources.

Question 19: Do you agree with our proposed approach to align capital requirements between POP operators that are MiFID and non-MiFID firms?

Product Governance

5.24 There are product governance requirements set out in PROD 3 and the product governance outcome in PRIN 2A.3 of Consumer Duty. Where a firm is already subject to PROD 3 (eg MIFID investment firms), PRIN 2A.3 does not apply to it though the rest of the Consumer Duty does apply.

5.25 We consider that POP operators would be distributors of the financial instruments in facilitating offers of relevant securities to the public. Whether the firm needs to comply with PROD or the Consumer Duty is determined by whether the POP operator is classified as a MiFID or non-MIFID firm.

5.26 For the avoidance of doubt, we are proposing guidance that assists with the interpretation of the application of PROD 3 to POP operators to help them navigate which set of rules they will need to comply with.

Financial Promotion Rules

5.27 The financial promotion rules continue to apply in the context of the new regulated activity and POP operators will need to comply with them. The communication of financial promotions is integral to the offering of securities.

5.28 The making of a public offer by means of a POP will likely involve unauthorised persons (issuers) communicating, or causing the communication of, financial promotions relating to the offer. Such promotions will likely require approval by an appropriate authorised person. We anticipate that firms operating POPs will also take responsibility for approving issuers' financial promotions in relation to the offers they facilitate. In this case, POP operators will also likely require permission to approve financial promotions. While there are exemptions from the need for permission, we anticipate that financial promotions relating to offers will, in many cases, be prepared by the issuers rather than the POP operators such that specific approval permission is required. That said, our expectation is that a POP operator's role as an approver of financial promotions would align closely with the specific requirements we are proposing for POP operators under chapter 4 of this CP. Further background on recent changes to the rules for approvals of financial promotions can be found in PS23/13 and PS22/10.

5.29 Firms operating a POP will need to comply with the rules in COBS 4 when they are communicating or approving financial promotions relating to the public offer of securities. We expect financial promotion rules for high-risk investments to be of particular importance for POP operators, alongside the rules for firms approving financial promotions in COBS 4. PS 22/10 on strengthening our financial promotion rules for high-risk investments and firms approving financial promotions also provides further background to recent changes to these rules.

5.30 We anticipate that most of the securities promoted via POPs will be restricted mass market investments (RMMI). Generally, they will not be readily realisable securities, as they will not be admitted to trading on a regulated market or MTF. This means, in practice, that firms can generally mass-market to retail investors, so long as they comply with specific conditions set out in COBS 4.12A. These restrictions relate, for instance, to the need for prescribed risk warnings, the inclusion of a cooling off period, client categorisation and appropriateness testing, and a ban on inclusion of incentives to invest.

5.31 The range of securities in relation to which POP operators will be able to facilitate public offers derives from the broader POATR framework. It is, in fact, broader when compared to regulated markets and MTFs since it comprises both transferable and some non-transferable securities, specifically non-public instruments creating or acknowledging indebtedness (eg, debentures, debenture stock, loan stock, bonds or certificates of deposit).

5.32 In this context, it is possible that some products being offered via POPs could be classified as non-mass market investments (NMMI). This would be the case for instruments classified as speculative illiquid securities (SIS), such as speculative mini-bonds, or instruments classified as non-mainstream pooled investments (NMPI). It is for the operator of the POP to make the appropriate assessment of any securities they offer against the relevant financial promotion product categories and ensure that any restrictions on promotion are applied accordingly.

5.33 After the proper due diligence is carried out on NMMI under our bespoke set of rules, our financial promotion rules would mean such investments could not be made generally available to the platform's retail client base. Instead, the platform could only make NMMI promotions visible to those investors that are categorised as either high-net worth or

sophisticated, and for whom the investment is assessed as likely to be suitable (where this requirement applies), in line with the rules in COBS 4.12B.

5.34 We propose POP operators should be subject to our financial promotion requirements as they generally apply. POP operators should use the existing flexibility within the current rules to tailor their compliance to their particular context, eg firms should tailor appropriateness assessment questions and risk summary text accordingly where these requirements apply. We invite feedback on whether there are any specific provisions, particularly in COBS 4.12 or 4.12B, that should be amended for POPs, and we will keep this under review as we learn more about how POPs operate in practice.

Question 20: Do you agree with our proposal to apply existing financial promotion rules to firms operating a POP, as relevant to the type of security being offered?

The Consumer Duty

5.35 Where appropriate, firms operating POPs will need to comply with obligations under the Consumer Duty (the 'Duty'). The application of the Duty to POP operators depends on their business model and activities.

5.36 Under the Duty, firms must act to deliver good outcomes for retail customers.

5.37 The Duty sets a range of requirements for firms. Importantly, these include three cross-cutting obligations that firms must:

- act in good faith towards retail customers
- avoid causing foreseeable harm to retail customers, and
- enable and support retail customers to pursue their financial objectives

5.38 We consider these cross-cutting obligations support a need for adequate due diligence by platforms and ensure adequate disclosures are made to inform investors.

5.39 There are also four sets of retail customer outcomes rules and guidance that clarify general conduct requirements in areas representing key elements of the firm-consumer relationship:

- the governance of products and services
- price and value
- consumer understanding, and
- consumer support

5.40 For example, where the rules apply, firms operating POPs must ensure the design of their products and services meets the needs, characteristics and objectives of a target market and provides fair value to customers in the target market. Firms must ensure their communications meet the information needs of, and are likely to be understood by, retail customers, and that they equip customers to make effective, timely and properly informed decisions. And firms must ensure they design and deliver customer support that meets the needs of retail customers, including those with characteristics

of vulnerability. Firms must monitor the outcomes they provide to their customers over time, including whether any groups of customers experience worse outcomes. Where groups of customers receive poor outcomes, firms must take appropriate action to address the situation.

5.41 These requirements apply in a similar way as for other consumer investment activities, such as investment-based crowdfunding.

5.42 In deciding how to meet the outcomes-focused rules of the Duty, firms must take into account the nature of the product or service, the characteristics of their customers and the firm's role.

5.43 It is not the intention of the Consumer Duty to shift the risk of investment losses or company failure from investors to POP operators, or replace the need for investors to carefully consider the available information and understand the key features and risks before buying a potentially higher-risk investment. The Duty doesn't remove consumers' responsibility for their choices and decisions.

5.44 However, consumers can only be expected to take responsibility for their actions when they are able to trust that products and services are designed to meet their needs, and offer fair value. They need help to understand products and services, and they need confidence that firms will act in a way that helps, rather than hinders, their ability to make decisions in line with their needs and financial objectives.

5.45 For more information on our expectations under the Consumer Duty, please see our guidance in FG22/5.

Question 21: **Do you agree with how we are considering the applicability of the Consumer Duty in the context of the new regime for POPs?**

Requirements relating to client assets (CASS)

5.46 The new regulated activity of operating a POP focuses on the communication of public offers. Therefore, we do not expect firms to hold clients' assets when this regulated activity is considered on a standalone basis.

5.47 Nonetheless, firms will need to consider whether they expect to hold client money or assets in relation to any other regulated activities they may carry out. If that is the case, then they will need to apply the relevant requirements as applicable under our Client Assets sourcebook (CASS) for such activities.

Question 22: **Do you agree with our proposal that firms operating a POP should be subject to our rules in CASS, as applicable, if they hold client money or assets?**

Question 23: **Are there any amendments you think we should make to CASS in relation to the introduction of the new regulated activity?**

The Financial Ombudsman Service

5.48 The Financial Ombudsman Service is an independent body set up by Parliament to resolve certain complaints between eligible complainants and businesses that provide financial services. Its role is to resolve these disputes quickly and with minimum formality, on the basis of what is fair and reasonable in all the circumstances of the case.

5.49 We note that regulated activities fall, in general, under the Financial Ombudsman Service's Compulsory Jurisdiction. This includes regulated activities that are similar to operating a POP, including those related to investment-based crowdfunding. In this context, we welcome any views on whether we should mirror the same approach for the new regulated activity of operating a POP.

5.50 We also need to determine whether we should extend Financial Ombudsman Service coverage to both issuers and investors, or only the latter.

5.51 We plan to consult on these proposals in due course.

Question 24: **Do you think that issuers and investors that use POPs should be able to refer complaints about POPs to the Financial Ombudsman Service?**

The Financial Services Compensation Scheme

5.52 The Financial Services Compensation Scheme (FSCS) is the UK's statutory compensation scheme for financial services. It steps in to protect consumers when certain authorised financial services providers are unable, or likely to be unable, to meet civil claims against them. Bringing a claim to the FSCS is free to consumers, and the FSCS plays a critical role in both protecting consumers and ensuring confidence in financial services markets.

5.53 A number of conditions have to be met before the FSCS can pay compensation. It is not able to pay claims solely linked to poor performance of an investment. FSCS is only able to provide protection when the actions or omissions attributable to firms carrying out regulated activities result in harm to investors. This aspect is particularly important given the typically higher-risk nature of securities likely to be offered via POPs. If a POP operator has fulfilled its regulatory obligations connected to its due diligence and disclosure of an offer of securities made to investors as clients of the platform, and any other applicable rules, investors would be unlikely to have recourse to FSCS at a later stage if that investment subsequently performed badly and lost money.

5.54 We intend to extend FSCS coverage to the regulated activity of operating a POP in relation to investors, but not issuers. In this context, issuers would not be protected by the FSCS, regardless of size, so would not be caught by the exclusion for large companies under COMP 4.2.2R(13).

Question 25: **Do you agree with our proposed approach to provide FSCS coverage to investors when the actions (or omissions) of POP operators result in a harm to investors?**

Regulatory reports by POP operators to the FCA

5.55 In light of this being a new regulated activity, we are minded to propose a specific set of reports that POP operators would need to provide to the FCA on a periodic basis. This data will enable us to monitor the development of the market and intervene in case any harm, or potential for harm, arises.

5.56 These would be based on similar data that we receive from crowdfunding firms, but with certain additional items on areas such as the:

- total value of public offers communicated through the POP operator
- number of public offers failing to reach target amount, and
- default rates following public offers of equity securities

5.57 Some of the proposed reports, even though based on the type of information we typically receive from crowdfunding firms, have been rearranged to address the differences between the activities (eg, the bands pertaining to the number of public offers were reconfigured to cater for public offers above £5m).

5.58 A list of proposed periodic data reporting items can be found in Annex 3 to this CP.

5.59 We are also proposing to amend our complaints reporting rules in order to extend them to the new regulated activity of operating a POP.

5.60 As part of our implementation process, we intend to consult on the reports mentioned above in more detail, and also on the changes that will need to me made to our existing supervision rules (SUP sourcebook), which apply depending on the type of firm or activity being carried out.

Question 26: **Do you agree with our proposed approach to reports we are requiring on POP operators?**

Question 27: **Do you agree that we should extend our complaints reporting rules to this new regulated activity?**

Fees

5.61 We recover our costs from the firms we regulate. We intend to consult on our proposals for charging public offer platforms as part of our annual consultation on fees policy, which is due for publication in November 2024. If we decide to extend Financial Ombudsman Service coverage and FSCS protection to include this new activity, this would include both Financial Ombudsman Service fees and FSCS levies.

5.62 In the case of FSCS, if we extended protection to include this new activity, we expect the impact on levy payers would be low and proportionate, given the small number of firms we expect to be carrying out this new regulated activity and the minimum capital requirements we are proposing above.

Chapter 6

Other ancillary proposals related to the activity of operating a POP

6.1 This chapter sets out our proposals and views on ancillary topics relating to the activity of operating a POP that were not covered in the chapters above. They refer to rules and guidance that are consequential to our proposals set out in Chapter 4 of the CP and to the regulatory framework more broadly, including the Handbook and the POATRs.

The concept of client in relation to POP activity

6.2 As mentioned in elsewhere, we are proposing a new, dedicated section in the COBS sourcebook (COBS 23). For the purpose of our new rules (ie, new COBS 23), we propose to adopt a narrow concept of client that only refers to investors or prospective investors in securities, the offers of which are communicated via POP operators. For the avoidance of doubt, we have adopted the concept of 'investor client'.

6.3 We note that the approach that we are proposing differs from that of the established regime for corporate finance business within COBS. We consider that this is appropriate because a key function of the POP is to deliver regulatory protection to prospective investors in public offers of securities. It would be entirely incongruous with the role being developed for POPs if they were able to treat investors as mere contacts rather than clients.

6.4 However, we are not extending this change to other activities and areas regulated in the Handbook where, a broader concept of 'client' (ie, comprising both issuers and investors) is used. Beyond COBS 23, the usual, broader definition of 'client' (COBS 3.2) would apply to a firm's activity. An example of this could be our rules that require firms to identify, prevent or manage and, if necessary, disclose conflicts of interests under COBS 11.7.1R and COBS 6.1.4R. This approach is consistent with that which we take to crowdfunding where we have previously indicated that we consider it important that crowdfunding platforms treat those on both sides of the transactions they facilitate as clients (please see paragraph 4.16 of FS16/13).

Question 28: **Do you agree with our proposal for adopting a narrow concept of client for the purposes of our specific rules for operators of POPs (ie, new COBS 23)?**

Corporate Finance Business

6.5 The Handbook includes a concept of 'corporate finance business' for the purpose of applying a tailored regulatory regime to firms carrying on such business. Consistent with the approach to investment-based crowdfunding, we propose to confirm for the avoidance of doubt that the activity of operating a POP does not fall within the scope of corporate finance business.

Overseas issuers

6.6 As mentioned above, and consistent with the government's position not to exclude overseas private companies from offering securities to the UK public, we propose that POP operators should be able to communicate public offers relating to overseas issuers, not just UK incorporated companies. In this case, we remind firms operating POPs that they should particularly consider, in such circumstances, whether they are able to meet the requirements and standards we are proposing in our rules, including assessing whether an issuer and offer is appropriate to be made, and certain financial promotions rules.

6.7 We expect POP operators to fully comply with our rules, regardless of the location in which a company seeking to offers its securities is based. Should a POP operator not be able to satisfy our requirements to eg gather sufficient information or conduct reasonable due diligence enquiries due to where an issuer is located, it should not proceed to offer those securities on its platform.

Question 29: **Do you agree with our proposed approach to POP operators making offers of securities relative to overseas issuers?**

Advertisements

6.8 Given the broad array of regulatory requirements that we propose to apply to POP operators, in particular the financial promotion rules, we are not minded to propose specific rules on advertisements pertaining to public offers made through POPs.

6.9 Under the existing Prospectus Regulation, specific advertising provisions exist to address the risk that other communications made alongside a public offer or admission risk undermining an approved prospectus document. These provisions primarily focus on the consistency between prospectuses and said communications and intend to avoid the risk that investors are presented with inaccurate or misleading information they would not otherwise find in the relevant prospectus. This will not be relevant in the case of offers made via a POP, since there will be no prospectus.

Question 30: **Do you agree with our proposed approach to not create further specific rules for advertisements under our specific provisions for POP operators?**

Appointed representatives

6.10 We confirm that under the current legislation, the regulated activity of operating a public offer platform cannot be carried out through an appointed representative (AR), notwithstanding that some other, similar regulated activities can be (such as arranging deals in investments or arranging for the safeguarding and administration of assets).

Annex 1

Questions in this paper

Question 1: Do you agree with our proposed approach to have an outcomes-based approach supplemented with minimum information requirements for the information gathering step of the due diligence process?

Question 2: Do you agree with the minimum information requirements we are proposing? Are there others you would like us to consider?

Question 3: Do you agree with the standards and expectations we are proposing for POP operators to analyse the information they gather on issuers?

Question 4: Do you agree with the proposed distinction between factual and non-factual information, and the implications this has in the relevant assessment standard?

Question 5: Do you agree with our proposed approach to the creditworthiness assessment we expect POP operators to carry out on issuers?

Question 6: Do you agree with our proposed approach to how we expect POP operators to communicate the result of their due diligence with investors?

Question 7: Do you agree with the additional information we are requiring POPs to present investors with, including our proposed confirmation statement?

Question 8: Do you agree with our proposal to require specific contractual terms between POP operators and issuers to ensure any relevant, material change to information while an offer is open is communicated to the POP operator?

Question 9: Do you agree with our proposals to grant withdrawal rights should a material change in information be disclosed prior to an offer closing, and that POP operators should make investors aware of any significant change in information regarding the securities they agreed to purchase?

Question 10: Do you agree with our current proposal that POP operators will have no ongoing disclosure obligations relating to an offering once it has closed? If you do not agree with it, which of the options described above would you favour and why. Please provide views or estimates with regards to costs and benefits to POP operators and investors.

Question 11: Do you agree with the policies and procedures we are proposing for POP operators? Are there any other requirements in this area you consider relevant, including any other contractual terms you would favour us prescribing in our rules?

Question 12: Do you agree that our proposal on liability strikes the appropriate balance between investor protection and market development objectives? If not, please explain why and what you would change.

Question 13: Besides what you may have mentioned when answering the previous questions, do you identify any additional aspect we should consider in the context of the new regulated activity?

Question 14: Do you agree with our proposed approach to voluntary offers where they may be made by a firm also operating as a POP?

Question 15: Do you favour the issuance of guidance for firms facilitating sub-£5m public offers to have regard to the rules we are proposing? If so, should that guidance be directed only to POPs or also other types of firms (eg, investment-based crowdfunding and corporate finance firms)?

Question 16: Do you agree with our approach that we would expect firms to have to comply with relevant wider provisions?

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Question 25: Do you agree with our proposed approach to provide FSCS coverage to investors when the actions (or omissions) of POP operators result in a harm to investors?

Question 26: Do you agree with our proposed approach to reports we are requiring on POP operators?

Question 27: Do you agree that we should extend our complaints reporting rules to this new regulated activity?

Question 28: Do you agree with our proposal for adopting a narrow concept of client for the purposes of our specific rules for operators of POPs (ie, new COBS 23)?

Question 29: Do you agree with our proposed approach to POP operators making offers of securities relative to overseas issuers?

Question 30: Do you agree with our proposed approach to not create further specific rules for advertisements under our specific provisions for POP operators?

Question 31: Do you have any comments on our cost benefit analysis?

Annex 2

Cost benefit analysis

Introduction

1. The Financial Services and Markets Act (2000) requires us to publish a cost benefit analysis (CBA) of our proposed rules. Specifically, section 138I requires us to publish a CBA of proposed rules, defined as 'an analysis of the costs, together with an analysis of the benefits that will arise if the proposed rules are made'.

2. This analysis presents estimates of the significant impacts of our proposal. We provide monetary values for the impacts where we believe it is reasonably practicable to do so. For others, we provide a qualitative explanation of their impacts. Our proposals are based on weighing up all the impacts we expect and reaching a judgement about the appropriate level of regulatory intervention.

3. In this CBA, we assess the impact of our proposed bespoke rules and guidance which will be specific to firms who choose to take up the new permission to operate a Public Offer Platform (POP), and how we propose to apply wider rules generally applicable to investment firms, or generally applicable to firms across our Handbook, which would likely already apply to those seeking to operate a POP due to their other regulated activities.

4. This CBA has the following structure:

- The Market
- Problem and rationale for intervention
- Options assessment
- Our proposed intervention
- Baseline and key assumptions
- Summary of impacts
- Benefits
- Costs
- Wider economic impacts
- Monitoring and Evaluation

The Market

5. The new public offers and admissions to trading regime (POATR) gives the FCA power to set rules around the new regulated activity of operating as a Public Offer Platform (POP). The Government has proposed to remove the current requirement for an FCA-approved prospectus to be published for offers of transferable securities with a total consideration of more than €8 million. Instead, it will be possible for securities to be

offered to the public in reliance upon a number of exemptions, including an exemption for public offers where the total value of the offer exceeds £5 million, subject to that offer being made on a POP.

6. POPs will therefore be used by issuers who seek to make public offers of unlisted securities where the value of the offer exceeds £5 million. Using data from Beauhurst, we observe that at least 31 companies raised over £5 million over a 12-month period through comparable crowdfunding platforms between July 2018 and December 2022.

7. Currently, the majority of fundraising through these platforms is well below the new £5 million threshold. The €8 million threshold has effectively acted as a cap on offers of unlisted securities, because companies offer under this threshold in order to avoid the significant costs associated with producing a prospectus.

8. A report by Beauhurst (pp.9) notes that small deal sizes on crowdfunding platforms can also be explained by the fact that crowdfunding is typically used at the earliest stages of a company's evolution. However, Beauhurst also note that crowdfunding is becoming more popular among later-stage businesses, with the proportion of crowdfunding deals going to seed-stage start-ups[1] falling from 82% in 2013 to 39% in 2021. Moreover, the removal of the requirement to produce a prospectus, and instead raise capital through a POP, may increase the attractiveness of fundraising in this way.

9. Based on the current crowdfunding market, we would expect offers made via a Public Offer Platform to be directed largely at retail investors. However, we acknowledge the potential for some platforms to undertake the new activity with a focus on companies seeking capital from professional investors.

10. There are currently 27 crowdfunding platforms and 462 corporate finance firms operating in the UK, which may consider taking up the permission to operate a POP.

Problem and rationale for intervention

11. In the absence of our proposed rules, POPs would be implemented using existing FCA regimes and the Consumer Duty. Without additional rules on due diligence and disclosure requirements, investors may lack the necessary information to make informed decisions, potentially exposing them to greater losses.

12. Adequate information on potential investments is especially relevant given the additional risks to those who invest via POPs that arise from limited liquidity and transparency post issuance. Investments acquired through POPs cannot be easily exited as no liquid secondary market will exist for these investments.

13. In the absence of adequate due diligence rules for platforms, investors may face a higher risk of fraud and scams. This risk may result in adverse selection whereby good companies' ability to raise capital is negatively impacted, as they may need to offer

1 Beauhurst define a seed-stage company as "a young startup, with low employee count, valuation, and total equity investment raised."

higher returns to compensate for the higher perceived risks. In the extreme, investors may exit the market, limiting firms' ability to raise capital through POPs.

14. Additionally, inconsistency in the content and presentation of information provided to investors may lead to confusion and make options difficult to compare, thus impeding effective competition.

15. There may have also been reputational effects on investments in this space resulting from the London Capital and Finance (LCF) case. In the past, a considerable number of highly speculative mini-bonds were offered without the appropriate regulation and oversight in place. This episode resulted in significant investor losses.

Drivers of harm

16. The relevant driver of harm in this market is asymmetric information.

17. Given the risks of investing, to make good investment decisions, investors need robust and complete information on the risks they are taking on. Without additional rules, there are no requirements for POPs or issuers to provide this information to investors. This information asymmetry between issuers and investors leaves investors (especially retail investors) at risk of making poorly informed investment decisions that they are unable to exit.

18. This can lead investors to make investment decisions based on inaccurate beliefs over the features and risk profile of their investments. The harms would manifest for investors in the form of lower risk adjusted returns from inefficient capital allocation, including the risk of complete capital loss for their investment. In the worst cases, information asymmetry can create opportunities for fraudulent activity, whereby individuals set up a company and issue securities (whether transferable or non-transferable) with the intention of taking the capital raised out of the business.

19. Moreover, the firms that raise investments through POPs will in most cases be relatively small compared to the types of firms that can be found on public equity markets. Such firms are also likely to be higher risk, in part due to their limited track record with which investors can assess the risk return profile of the potential investment.

Options considered in our analysis

20. We have considered various approaches to addressing the harms described above, and in particular the trade-offs between being more prescriptive or flexible in our requirements on due diligence, disclosure and liability. The options we have considered relate to:

- whether or not we should adjust general authorisation requirements to create a bespoke regime
- the extent to which we should add new requirements, and
- how prescriptive we should be in setting any additional regulatory requirements.

21. These options are considered in more detail in Table 1 below with the option selected for further analysis highlighted in coral:

Table 1: Long list options for rules on Public Offer Platforms

	Option 1	Option 2	Option 3	Analysis
General approach	Do nothing Application of the Consumer Duty and triggering of authorisation requirements	Application of the Consumer Duty, triggering authorisation requirements and additional requirements for due diligence and disclosures, as appropriate	Development of a bespoke regime including specific requirements over and above authorisation requirements as well as due diligence and disclosures requirements	Whilst we have considered options 1 and 3, we consider that option 2 represents a balanced approach between ensuring that the risks for investors are minimised and ensuring that the costs for platform operators (which may be passed down to issuers and investors) are proportionate.
Due diligence and information gathering to be carried out by a platform on an issuer and the security to be offered prior to allowing an offer to be made	Do nothing Application of the Consumer Duty and authorisation requirements but no other specific requirements	Consumer Duty principles plus consulting on a general clause where POP operators would need to gather the information reasonably deemed necessary for investors to make informed decisions supplemented by minimum information requirements. We also propose to establish an appropriateness standard that POP operators would need to fulfil when assessing the information	Necessary information test-type approach as for a prospectus and detailed requirements for due diligence and information gathering to achieve this.	Clarification of our requirements in this area may provide greater certainty for platform operators and mean that they carry out targeted and proportionate due diligence. Putting in place the steps of due diligence we expect would also ensure that investors are more likely to be protected against bad actors and bring a higher level of consistency across the market.

	Option 1	Option 2	Option 3	Analysis
Disclosure by POP operators to investors on the due diligence undertaken, and key information about the issuer	Do nothing Application of the Consumer Duty, financial promotions rules and authorisation requirements but no other specific requirements	Overarching requirement for clear, fair and not misleading standard. POP operators must give investors a description of the policy and due diligence undertaken and a disclosure summary. Update of information if material changes occur whilst the offer is still open.	Set forth a prescriptive set of rules on how POP operators should present information to investors (e.g., a template)	Making our expectations clear in this area could ensure that platform operators give investors the information they need while avoiding over prescription which may be disproportionate.
The interaction of our rules with liability/ redress applying to platforms and issuers	Do nothing Private right of action in section 138D FSMA is not switched on	POP operators to be liable in respect of their compliance with FCA rules. Issuers not liable but investors can rely on common law remedies.	Prospectus liability standard.	Making POP operators liability clear will assist investors. Having a more calibrated approach on liability helps to calibrate the risk distribution between POP operators and issuers.

22. In considering how far we should propose prescriptive new rules, we have taken account of the need to be proportionate. Given that platform operators are likely to already be authorised firms, requiring new rules in relation to disclosures, due diligence and liability may duplicate authorisation requirements, creating confusion and additional costs for operators.

23. We have also considered the effects on the secondary international competitiveness and growth objective (SICGO) when deciding between options. We believe that the options selected secure an appropriate degree of protection for investors but are not so prescriptive as to discourage issuers from making offers via POPs. In making these choices, we have sought to be proportionate in order to facilitate capital raising in this space and therefore advance the SICGO.

24. Option 1 was discarded because we do not believe it could ensure sufficient protection for investors or enable them to benefit from consistency in their expectations of due diligence across the market. Option 3 was discarded because we believe the level of prescription described in the table above may impose overly burdensome requirements on firms that may not be sufficiently flexible to accommodate different scenarios. This may generate unnecessarily high compliance costs for firms, which may be passed

onto consumers. Option 2 was chosen because it offers a balanced approach, ensuring investor protection through necessary due diligence and disclosures while keeping regulatory costs proportionate for platform operators and issuers.

Our proposed intervention

25. POATR will allow for public offers to be treated separately to admissions to regulated markets. Starting from a general prohibition on public offers of securities, the legislation proposed by the Government provides exemptions for public offers made outside of public markets, which will not be subject to a prospectus requirement. For large offers made to the public, there is an exemption that allows for such offers to be made via a POP, the operation of which will be a new regulated activity and therefore be subject to FCA authorisation, rules and oversight.

26. Our proposed approach is to supplement our 'Do nothing' approach of applying the Consumer Duty and appropriate authorisation requirements from our handbook with specific but proportionate requirements for due diligence and disclosures.

27. As detailed above in the main CP chapters, we are proposing the following rules:

- due diligence to be performed by platforms when onboarding companies and assessing the securities to be offered
- information and disclosures designed to inform investors of the key features and risks associated with offers of 'off market' securities, typically by smaller companies, and
- liability on POP operators

28. We are also applying the Consumer Duty and appropriate authorisation requirements from our handbook.

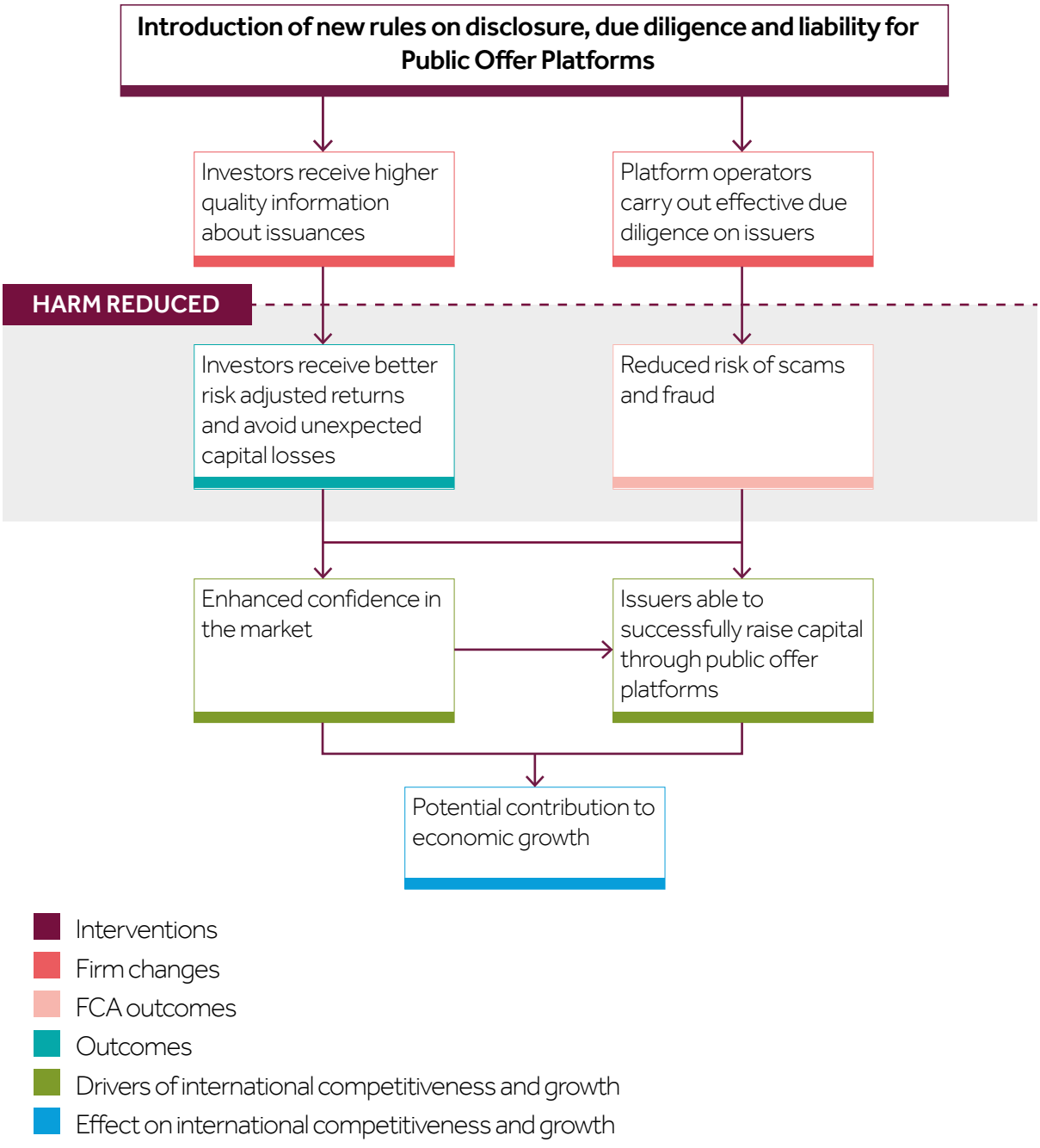
29. Our proposed intervention is described in the causal chain set out below. Our proposals bring about benefits compared to the baseline "do nothing" approach through two mechanisms. Firstly, our due diligence requirements will ensure that poor quality and even fraudulent issuers are not able to access POPs. This will increase the overall quality of the issuers on POPs. Investors will therefore benefit from avoiding the costs of investing in poor quality offers, including scams and fraud. Secondly, investors with better information are less likely to make poor investment choices. By making better investment choices, they will increase the risk adjusted returns that they make.

30. POPs are a new mechanism for bringing investment opportunities to investors. There is literature on the effect of disclosure in crowdfunding. For example, Donavan (2021)[2] finds a positive association between financial reporting and capital raised, suggesting that accounting reduces information asymmetry with potential investors. We note that there is significant academic literature that shows the benefit of disclosure for IPOs.

2 John Donovan (2021) Financial Reporting and Entrepreneurial Finance: Evidence from Equity Crowdfunding. Management Science 67(11): 7214-7237.

31. We expect that these two effects could also have small positive effects on confidence in the POP market, and these may have positive benefits for issuers.

Figure 1: Causal chain for the implementation of the new Public Offer Platform regime



Baseline and key assumptions

Baseline

32. We are taking Parliament's legislative changes as assumed. As such, the baseline is that the new legislative framework is in place, but no changes have been made to the FCA rules.

33. We are therefore interested in the impact of our rule changes over and above the existing rules that POPs would be subject to if we did not make changes beyond what has been made by Parliament. Anything in addition to the legislative changes, or any choices in the specific design and implementation of the rules, would then be considered as discretionary and so included in the CBA.

34. In the absence of further intervention from the FCA, Public Offer Platforms would operate under existing FCA regimes and the Consumer Duty. As such, in our baseline, the level of due diligence undertaken and any disclosure requirements on issuers would largely be at the discretion of Public Offer Platform operators, with some instruction provided by existing rules. We would expect some crowdfunding platforms to apply for the new permission, and for some issuers to make use of the exemption to make offers over the £5 million threshold.

35. We ancipate all POP operators to be existing regulated firms, who are already complying with FCA rules in our handbook for other activities. This will limit the costs of the application of the existing handbook to POP activity.

36. We note that as POPs do not yet exist, we have to make an assumption about the likely level of issuance on POPs. While we expect that existing crowdfunding activity in the range of £5m-EUR 8m will continue, there is potential for new issuances to arise. We are unable to predict this new activity.

Key assumptions and uncertainties

Issuers

37. Between July 2018 and December 2022, Beauhurst data shows that at least 31 companies used crowdfunding platforms to raise amounts greater than £5 million over a 12-month period, with some of those firms doing so more than once over that period. However, we note that not all instances of fundraising would have been accounted for in the data used as some firms choose not to disclose the amounts fundraised.

38. This means that during this period, on average, 7 firms a year raised over £5 million over a 12-month period using crowdfunding platforms and so would be affected by the new rules.

39. We expect that Public Offer Platforms could attract a wider population of firms than the current population of private companies raising larger amounts of capital on crowdfunding platforms. In HMT's Impact Assessment of the new Public Offers and Admission to Trading Regime (POATR), they showed that the €8 million threshold (at

which private companies are required to produce a prospectus) has effectively acted as a cap on private companies who wish to raise capital through public offerings. The removal of this requirement in place of the new legislation and exemptions regarding POPs may reduce the disincentive to raise capital. As such, even in the absence of further intervention from the FCA, we expect an increase in capital raising in this space.

40. In addition, the government reforms have brought non-transferable debt securities (NTDS), including minibonds, within scope of the POATRs. Previously, these were unregulated. A government-commissioned report by London Economics and YouGov found that there were around 25 minibonds with a value of more than £5 million issued between 2009 and 2019 (around 2 a year). However, since then, the market has declined considerably because of high-profile failures, such as London Capital and Finance, and our ban on the mass-marketing of minibonds. The inclusion of non-transferable debt securities within the Public Offers regime will enable these to again be marketed to retail investors. We anticipate a small number of additional capital raises through NTDS under the new regime.

41. However, there is a significant degree of uncertainty over the number of issuers that will make use of POPs in the baseline, and if our proposed rules were to be implemented. Given this uncertainty, we only estimate costs for 10 issuers a year. For the reasons described, we consider this to be a lower bound estimate.

Public Offer Platform operators

42. Crowdfunding platforms hosting offers solely below the new £5 million threshold will be unaffected by the new regime, as they will not be captured by the new regulated activity. Platforms which intend to allow companies to make offers above the threshold will have to apply for a new FCA permission allowing them to operate as POPs. Otherwise, they will only be allowed to host offers below £5m, provided they have the appropriate permissions in place.

43. The HMT Impact Assessment ('The Public Offers and Admissions to Trading Regulations 2024') assumed that half of crowdfunding platforms, or 14 firms, would become POPs.

44. At present, the majority of fundraising on crowdfunding platforms above £5 million occurs on 2 crowdfunding platforms. However, as described above, under the new regime, we may observe an increase in the number of issuers raising over £5 million on platforms, which may in turn incentivise a greater number of crowdfunding platforms to enter this space.

45. Given the high degree of uncertainty over the number of firms who will operate as a POP, we estimate a range of cost estimates. Our lower bound cost estimate is based on the assumption that 2 firms become authorised as a POP operator, and our upper bound estimate based on there being 10 operators.

Investors

46. Based on the current crowdfunding market, we would expect offers made via a Public Offer Platform to be directed largely at retail investors. However, we acknowledge the

potential for some platforms to undertake the new activity with a focus on companies seeking capital from professional investors.

Summary of Impacts

47. The new rules will create a due diligence and disclosure framework for POP operators and issuers. Aside from the costs of applying for the new permission and any costs associated with complying with existing FCA regulation, which we assume are incurred in the baseline, POP operators and issuers will face additional costs that arise from complying with the new rules. For POP operators, these will include the costs of setting up systems to undertake due diligence and approve initial disclosures.

48. Investors will benefit from clearer and more consistent disclosure requirements, and also from the reduced risk of scams and fraud. Increased uptake by investors will yield benefits for issuers, who will be able to successfully raise larger amounts of capital from a wider range of investors, and for POP operators, who will gain additional revenue from the fees associated with these activities.

49. We expect that our intervention to ensure appropriate due diligence, disclosure and liability will enhance trust and confidence in the market, and thus facilitate capital raising by non-publicly traded companies. To the extent that POPs will be especially relevant for companies at their earliest stages, our rules will contribute to creating an economic environment in which start ups have a greater chance of survival, and thus will support innovation and the productivity of the UK economy.

Table 1 – Summary table of benefits and costs

Group affected	Item description	Benefits (£)		Costs (£)	
		One off	Ongoing	One off	Ongoing
Platform operators	Familiarisation costs and legal analysis costs			£0.5m	
	IT project costs			£0.4m *(£0.1m-0.6m)*	
	Change costs			£0.6m *(£0.2m-£1.0m)*	
	Ongoing additional costs for platform operators imposed by additional requirements				£29k
Issuers	Costs of providing information to POPs				£2.4k

Group affected	Item description	Benefits (£)		Costs (£)	
		One off	Ongoing	One off	Ongoing
Investors	Due diligence requirements prevent scams being marketed to retail investors		Not quantified		
	Better information enables higher risk-adjusted returns		Not quantified		
FCA/wider society (if relevant)	Effects on international competitiveness		Not quantified		
	Effects on capital raising		Not quantified		
Total				**£1.5m** ***(£0.8m-2.1m)***	**£31k**

Table 2 – Present Value and Net Present Value

	PV Benefits	PV Costs	NPV (10 yrs) (benefits-costs)
Total impact	Not quantified	£1.7m *(£1.1m-£2.4m)*	-£1.7m *(-£2.4m to -£1.1m)*
-of which direct		£1.7m *(£1.1m-£2.4m)*	-£1.7m *(-£2.4m to -£1.1m)*
-of which indirect		£0	£0
Key unquantified items to consider	Benefits to investors from having additional information on issuers with which to make investment decisions and reduce risk of scam/fraud Benefits to issuers from capital raising on POPs Benefits to POP operators from additional revenues derived from the new activity		

Table 3 – Net direct costs to firms

	Total (Present Value) Net Direct Cost to Business (10 yrs)	EANDCB
Total net direct cost to business (costs to businesses – benefits to businesses)	£1.7m *(£1.1m-£2.4m)*	£0.2m *(£0.1m-£0.3m)*

Benefits

Investors

50. The proposed due diligence requirements will contribute to there being fewer misleading, or even fraudulent investments, offered to investors.

51. We expect investors to benefit from having sufficient, accurate, and useful information, on both the company and the securities being offered, to understand the opportunity and risks when investing in securities on the platform. Investors will therefore be better able to judge potential investments. This can enable them to make better risk adjusted returns.

52. We again note that under the new regime, there is scope for companies to issue non-transferable debt securities on POPs. Government-commissioned research by London Economics and YouGov, in which a survey of 68 issuers of 152 minibonds was conducted in connection with the future regulation of non-transferable debt securities, found that 20% of minibonds using a crowdfunding platform failed, versus 29% for direct offers. Although the market for minibonds has declined considerably since the ban on mass marketing, we may observe some increase in issuances with the introduction of POPs. Should this be the case, the proposed due diligence requirements will benefit investors by protecting them against the risk of investing in fraudulent offers in this space.

53. It is not reasonably practicable to quantify these benefits to investors given the uncertainty over the number of issuers that will use POPs, and the number of investors who will subsequently invest.

Issuers

54. Due diligence and disclosure rules will increase investors' confidence in investing through POPs. These requirements can reduce information asymmetry, helping investors make better-informed decisions. Improving transparency also mitigates risks associated with adverse selection and moral hazard, where poor-quality issuances could otherwise dominate. We would therefore expect these rules to lower investors' perception of risk and increase their trust in the offerings, thereby increasing investors' willingness to invest through POPs.

55. We note that POPs are two-sided markets where there may be network effects. Issuers will be attracted to POPs where there are more investors. More issuers, in turn, increase

the supply of investment opportunities and therefore attract more investors. Greater confidence will increase demand for investment through POPs and therefore contribute to this feedback loop, enabling issuers to successfully raise larger amounts of capital through public offerings.

56. Due to uncertainty over the level of uptake of POPs by operators, issuers, and investors, it is not reasonably practicable to quantify this benefit.

57. We would expect these benefits to be reflected in the number of issuances and the amount of capital raised per issuance. However, due to POPs not yet being in operation, we note that it would be difficult to disentangle the effects of these rules from the effects of the existing rules under which POPs would operate in the absence of the interventions described.

Public Offer Platform operators

58. The benefits described above will also create benefits for POP operators as greater use of POPs will generate higher revenue for operators. Moreover, reducing the risk of financial loss due to investment failure should help POP operators avoid poor publicity and contribute to the reputability of POPs generally, which is especially relevant given that the sector is new. This should again promote uptake and therefore revenue for POP operators.

59. It is not reasonably practicable to quantify these benefits to POP operators due to uncertainty over uptake. We would expect to observe these benefits by measuring use of POPs and revenues to POP operators, but again recognise the difficulty of determining the specific effect of our intervention given that we cannot observe the baseline. However, we note that we expect this effect to be small as POP operators would have the incentive to require information from issuers and publish this to consumers absent our proposals.

Costs

Costs to Public Offer Platform operators

Familiarisation and legal costs

60. We expect potential POP operators to incur one-off costs from familiarising themselves with the new rules. We expect all 27 crowdfunding platforms and 462 corporate finance firms will seek to understand our proposals for POPs.

61. We use standard assumptions to estimate these costs. We anticipate that there will be approximately 70 pages of policy documentation with which firms will need to familiarise themselves. Assuming that there are 300 words per page and a reading speed of 100 words per minute, it would take around 3.5 hours to read the policy documentation.

62. Of the 489 firms we expect to incur familiarisation costs, we assume 2 are large, 62 are medium and 425 are small. We assume 20 compliance staff at large firms read the

document, 5 staff at medium firms, and 2 staff at small firms. We assume the hourly compliance staff salary, including 30% overheads, is £61 at large firms, £57 at medium firms and £47 at small firms.

63. We also assume that firms incur legal analysis costs. We also expect those affected will undertake a legal review of the new requirements against current practices. We, again, use standard assumptions to estimate these costs. There are around 34 pages of legal instrument to review. It is assumed that large firms will incur the costs 76 hours of legal staff time; medium firms will incur the costs of 29 hours, and small firms the costs of 5 hours. We also assume an hourly cost of £72 per hour for large firms, £67 per hour for medium firms, and £63 per hour for small firms.

64. Using these assumptions, we estimate an average one-off cost of £10k to large firms, £3k to medium firms, and £0.6k to small firms. We expect total one-off industry-wide costs of familiarisation and legal analysis of approximately £0.47m.

Process and IT costs

65. The new rules would require POP operators to have the systems in place to undertake due diligence and ensure issuers' compliance with disclosure rules.

66. We expect that the one-off costs will be mainly IT costs arising from implementing changes to their existing systems. The costs will include IT development costs, i.e., costs relating to adapting existing IT systems and testing them.

67. We calculate these one-off IT costs by assuming the number of total person days needed to deliver the IT project by an overall team consisting of a business analysis team, design team, programming team, project management team, test team, and senior management. We use assumptions contained in our standardised costs model (SCM) for the relative proportions of the different sub-teams and their daily salary costs (including overheads). We expect each firm to incur the cost of 156 person at an average per day cost of £390 per day. This implies a cost per firm of £61k.

68. We calculate one-off systems change costs by assuming the number of total person days needed to deliver the project by an overall team consisting of a project manager and project team. We use assumptions contained in the SCM for the relative proportions of the different sub-teams and their daily salary costs (including overheads). We expect each firm to incur the cost of 280 person days at an average per day cost of £368.

69. In total, we expect one-off systems and IT costs to range from £0.3m to £1.6m with the lower bound estimate based on the assumption that 2 firms become POP operators, and the upper estimate based on the assumption that 10 firms become POP operators.

Costs of the specific requirements for public offer platforms

70. Our proposed rules require POP operators to undertake due diligence, information gathering and assessment and communicate the results to potential investors.

71. As we noted in the baseline section, we estimate costs based on the assumption that there are 10 issuances a year on POPs. For each issuance, we assume legal staff at POP

operators spend 50 hours undertaking the necessary due diligence to comply with the proposed new rules. We assume a legal staff salary of £72 per hour.

72. In total, we estimate annual ongoing costs of £29k.

Costs of the interaction between Public Offer Platform and wider handbook regime

73. We are proposing to include POP regulated activity under the concept of 'regulated activity'. This will mean firms that are undertaking POP activities, even if standalone, will become subject to rules relating to:

- threshold conditions, which firms are required to meet at the point of authorisations and on a continuing basis
- systems and controls requirements, which include the Senior Management and Certification Regime-related provisions
- overarching Principles for Businesses
- the Consumer Duty
- general provisions that are applicable to all firms within FCA's perimeter, and
- conduct of business requirements, as set out in the Conduct of Business Sourcebook

74. We are also proposing to apply rules on:

- financial promotions
- client assets, and
- regulatory reporting

75. We expect most firms, if not all firms, that become POP operators will already be regulated firms that are complying with many of these activities for their existing permission. We also note that these firms will have applied these rules to similar fundraising in the past (i.e., they have applied these rules to fundraising of above £5m). However, we expect firms to incur additional one-off costs from these rules. We have accounted for some process and IT costs in the early section.

76. We expect that there will be ongoing costs from applying these requirements. We do not expect these ongoing costs to be material because of the fact that compliance activity will also be occurring within the firm for their other permissions, and therefore the incremental costs of applying these rules to their POP activity is likely to be minimal.

Costs to issuers

77. Issuers will incur additional costs when they choose to raise funds using POPs. This is because they will need to provide more information to POP operators than under the baseline.

78. As before, we assume that there are around 10 issuers a year using POP platforms.

79. To estimate the costs of the required information provision for issuers, we assume they incur the costs of 5 hours of legal staff time to compile and submit the information required by POP operators. We assume an hourly cost of £47.

80. We therefore estimate annual ongoing costs to issuers of £2k per year.

Wider economic impacts, including on the secondary objective

81. We also consider how our proposed rules will advance the secondary international competitiveness and growth objective.

82. As we noted above, effective due diligence and disclosure requirements will reduce the risk of scams and fraud and ensure investors are able to make well-informed decisions regarding their investments. This will act to increase trust in the market, and therefore increase investors' confidence to make investments in this space.

83. In building trust and confidence in the market, we believe our proposed rules will facilitate capital raising in this space. Given the current profile of firms raising capital through crowdfunding platforms, we would expect issuers on POPs to primarily be smaller and medium-sized businesses. As such, we believe our proposed intervention will support innovation and the productivity of the UK economy by creating a regulatory environment in which these firms can secure the capital they need to survive and grow.

Monitoring and Evaluation

84. We intend to monitor the impact of our proposals on capital raising of amounts greater than £5 million by non-publicly traded companies using POPs. For that purpose, we propose to require specific reports from POP operators in key monitoring areas.

85. We also intend this regime to work as a means whereby companies that have the ambition to increase their presence in the capital markets can increase in size and graduate at a later stage of maturity to regulated markets or MTFs. Therefore, we will also monitor the exit or post-offer strategies that firms may choose to adopt, if any.

Question 31: **Do you have any comments on our cost benefit analysis?**

Annex 3

Proposed bespoke reporting requirements for POP operators

Reports on equity securities

Number of new public offers

Value per public offer

Value of total public offers

Value of public offer by category of investor

Number of public offers by band: (i) lower than £5M; (ii) between £5M and £10M; (iii) between £10M and £20M; (iv) between £20M and £50M; (v) higher than £50M

Number of public offers failing to reach target amount

Where available, number of issuer exits (eg, IPO, acquired, MBO)

Where available, number of previous issuers failing and time lapse since fundraising

SEC-codes for new raises

Default rates following public offers of equity securities

Reports on non-equity

Number of new bonds issued

Value of non-equity public offer by category of investor

Maximum, minimum and average interest rate of non-equity public offers

Number of public offers by band: (i) lower than £5M; (ii) between £5M and £10M; (iii) between £10M and £20M; (iv) between £20M and £50M; (v) higher than £50M

Number of public offers failing to reach target amount

Number of non-equity securities categorised as defaulted, distressed, missed payments for the first time

Types of non-equity securities and amount raised per offer

Where available, number of non-equity securities repaying in full and value of each repayment

Default rates following public offers of non-equity securities

Annex 4

Compatibility statement

Compliance with legal requirements

1. This Annex records the FCA's compliance with a number of legal requirements applicable to the proposals in this consultation, including an explanation of the FCA's reasons for concluding that our proposals in this consultation are compatible with certain requirements under the Financial Services and Markets Act 2000 (FSMA 2000).

2. When consulting on new rules, the FCA is required by section 138I(2)(d) FSMA 2000 to include an explanation of why it believes making the proposed rules (a) is compatible with its general duty, under section 1B(1) FSMA 2000, so far as reasonably possible, to act in a way which is compatible with its strategic objective and advances one or more of its operational objectives, (b) so far as reasonably possible, advances the secondary international competitiveness and growth objective, under section 1B(4A) FSMA 2000, and (c) complies with its general duty under section 1B(5)(a) FSMA 2000 to have regard to the regulatory principles in section 3B FSMA 2000. The FCA is also required by s 138K(2) FSMA 2000 to state its opinion on whether the proposed rules will have a significantly different impact on mutual societies as opposed to other authorised persons.

3. This Annex also sets out the FCA's view of how the proposed rules are compatible with the duty on the FCA to discharge its general functions (which include rule-making) in a way which promotes effective competition in the interests of consumers (section 1B(4)). This duty applies in so far as promoting competition is compatible with advancing the FCA's consumer protection and/or integrity objectives.

4. In addition, this Annex explains how we have considered the recommendations made by the Treasury under s 1JA FSMA 2000 about aspects of the economic policy of His Majesty's Government to which we should have regard in connection with our general duties.

5. This Annex includes our assessment of the equality and diversity implications of these proposals.

6. Under the Legislative and Regulatory Reform Act 2006 (LRRA) the FCA is subject to requirements to have regard to a number of high-level 'Principles' in the exercise of some of our regulatory functions and to have regard to a 'Regulators' Code' when determining general policies and principles and giving general guidance (but not when exercising other legislative functions like making rules).

7. When preparing our proposals, we had regard to the latest remit letter published on 9 December 2022, particularly on how they could support the Government's medium to long-term economic growth objectives in the interest of consumers and businesses and make the UK markets more attractive and competitive in the international landscape].

The FCA's objectives and regulatory principles: Compatibility statement

8. The proposals set out in this consultation are primarily intended to advance the FCA's operational objective of promoting consumer protection, market integrity and effective competition in the interest of consumers. Our proposals also intend to advance our secondary international competitiveness and growth objective.

Consumer protection

9. Our proposals will act towards the consumer protection objective as set out in s1C(2) FSMA 2000 as follows:

(a) the differing degrees of risk involved in different kinds of investment or other transaction

10. We have regard to carefully considering the differing degrees of risks that we identify in the types of investments that can be made available to investors through Public Offer Platforms (POPs). In this context, we expect our rules to contribute to bridging the information gap between investors and issuers, in a way that gives the former an appropriate level of information so as to decide whether they intend to invest in the relevant public offers.

(b) the differing degrees of experience and expertise that different consumers may have

11. Our proposals also reflect how different levels of experience and expertise of investors may require different approaches when POP operators present investment opportunities to prospective investors. This derives from, for example, our financial promotion rules.

(c) the needs that consumers may have for the timely provision of information and advice that is accurate and fit for purpose

12. We propose that investors receive relevant information (in particular, a disclosure summary on the due diligence carried out on the issuer) prior to engaging in any investment opportunity. We consider the minimum information we propose to require in conjunction with POP operators also considering any other relevant information needed to allow consumers to make an informed decision should achieve accurate and fit for purpose disclosures.

(d) the general principle that consumers should take responsibility for their decisions

13. As referred elsewhere, our proposals reflect the principle that investors will need to assess whether it is appropriate for them to invest in the types of public offers communicated via POPs. This means that they should use, among other things, the information that POP operators share with them and only engage in any investment if their risk appetite aligns with the inherent risks of relevant public offers. In this context, they remain responsible for their investment decisions.

(e) the general principle that those providing regulated financial services should be expected to provide consumers with a level of care that is appropriate having regard to the degree of risk involved in relation to the investment or other transaction and the capabilities of the consumers in question

14. We are proposing that POP operators carry out their duties according to what would be reasonably expected from a prudent firm. This means that they will need to have regard to investors' needs, in particular when gathering and assessing the information they need to make informed and effective investment decisions. In any case, the proposed set of minimum information requirements is intended to provide a common baseline that is expected to contribute to mitigate key information gaps that could be detrimental to consumers' ability to understand an investment.

(f) the differing expectations that consumers may have in relation to different kinds of investment or other transaction

15. POPs may be used to facilitate a wide range of investments. These will pose different risks and return expectations and investors will need to assess which ones are suitable investment options, based on their preferences. The specific requirements we are proposing for POPs to conduct appropriate due diligence on issuers and communicate it adequately to investors is expected to aid them in assessing the differences between different kinds of investments.

(g) any information which the scheme operator of the ombudsman scheme has provided to the FCA pursuant to section 232A

16. We have not received such information in relation to these proposals.

Market integrity

17. Our proposals will also act towards the market integrity objectives set out in s1D2 FSMA 2000 as follows:

(a) soundness, stability and resilience

18. After careful analysis, we expect the architecture of this new regime to positively contribute to enhance market integrity. Among its various aspects, the gatekeeping role we are assigning to POP operators is expected to work as an important filter that will contribute to the resilience of this market.

(b) its not being used for a purpose connected with financial crime

19. Our proposals duly considered the risk of POPs being used as a means to perpetrate financial crime. In this context, we are proposing that POP operators, trusted with extensive due diligence duties, work as a first line of defence against financial crime, thus contributing to its detection, reduction and ultimately prevent.

(c) its not being affected by contraventions by persons of Article 14 (prohibition of insider dealing and of unlawful disclosure of inside information) or Article 15 (prohibition of market manipulation) of the market abuse regulation

20. Our proposals are not affected by contraventions by persons of Article 14.

(d) the orderly operation of the financial markets

21. Our proposals work towards the orderly operation of the financial markets. Our proposals reflect an adequate level of investor protection while promoting market development and growth. It represents, therefore, what we consider to be a fair distribution of risk among the various market agents, notability investors, POP operators and issuers. Our rules are expected to create the adequate conditions for the financial markets to operate well, orderly and effectively.

(e) the transparency of the price formation process in those markets.

22. Considering that the securities offered through POPs will not benefit from a market-based price discovery mechanism, our proposals (in particular on due diligence) are expected to increase the level of information accessible to investors. This, in turn, will positively contribute to more sound valuations of issuers and consequent price setting for their securities. We seek views in response to the CP on whether we should consider any mechanisms to assist information flows post-offer, however the activity of operating a POP is focused on the making of an offer and does not provide for the FCA to set rules for secondary trading (although other, existing regulation may apply).

Competition considerations

23. Our proposals will also foster how the interests of consumers can be maximised through effective competition under s1E2 FSMA 2000 as follows:

(a) the needs of different consumers who use or may use those services, including their need for information that enables them to make informed choices

24. A central aspect in our proposals is investors' information needs. Our proposals reflect this concern in two particular ways: (i) the minimum information requirements we are setting and (ii) the requirements for POP operators to gather all the information that on a case-by-case basis is deemed material for investors to make and informed, effective investment decision.

(b) the ease with which consumers who may wish to use those services, including consumers in areas affected by social or economic deprivation, can access them

25. POPs are expected to be accessible platforms. In this context, we expect them to charge proportionate fees to the services they provide, therefore widening the investment options to investors in various social and economic circumstances.

(c) the ease with which consumers who obtain those services can change the person from whom they obtain them

26. We expect a competitive market to form around the new regulated activity of operating a POP. This is expected to provide investors with different service providers. We acknowledge though that for each public offer, there will probably be one POP hosting it. In any case, we understand this should be construed as a natural consequence of how capital raising processes need to be centralised in one facilitator rather than an impediment to obtain financial services from different market agents.

(d) the ease with which new entrants can enter the market

27. We are largely relying on baseline regimes in our Handbook that are already applicable to authorised firms. These include, but are not limited to, threshold conditions, systems and controls requirements, the Consumer Duty or relevant conduct of business regimes. By adopting this approach (as opposed to developing a new set of rules in those areas), we expect to reduce entry barriers for firms that choose to carry out the new regulated activity of operating a POP.

(e) how far competition is encouraging innovation

28. We have given particular consideration to this factor when setting our proposals out. This is particularly reflected in our outcomes-based approach, whereby we expect to prompt operators of POPs to compete in the way they provide information to investors. This is expected, in turn, to encourage innovation on how they communicate and interact with investors, turning the way they comply with (some) of our requirements into selling points aligned with investors' interests and expectations.

29. We consider these proposals are compatible with the FCA's strategic objective of ensuring that the relevant markets function well because they represent a proportionate and effective set of rules that will ensure regulatory discipline and bring consistency to how capital can be raised in the UK.

30. We consider these proposals comply with the FCA's secondary objective in advancing competitiveness and growth because they represent a more proportionate and cost-effective way of raising capital. It is our view that this is achieved without sacrificing investor protection, but by refocusing investors' attention on the most material and pertinent aspects of investments when compared to the comprehensive disclosures afforded in prospectuses. This, in turn, is expected to contribute to the international image of UK markets as a global hub for capital raising.

31. From a domestic perspective, our proposals are intended to contribute to a more efficient capital allocation process. By promoting easier access to capital, we expect companies to find it easier and more attractive to raise capital so as to fund their business expansion. In the long term, this productive capital is expected to fuel economic growth and prosperity of the wider UK economy.

Other considerations

32. In preparing the proposals set out in this consultation, the FCA has had regard to the regulatory principles set out in s3B FSMA 2000.

The need to use our resources in the most efficient and economic way

33. The FCA will need to allocate resources to the ongoing supervision of POPs, but these are expected to be moderate given the systems and resources we already have in place for similar regulated activities. The more specific proposals around due diligence and disclosure should enable effective supervision and enforcement where necessary if we see evidence of non-compliance.

The principle that a burden or restriction should be proportionate to the benefits

34. We consider that the requirements we are proposing, namely in terms of due diligence and disclosure rules that POP operators will need to comply with, represent an adequate burden in order to enhance investor protection and reduce information asymmetry between issuers and investors when the latter pick investments.

The need to contribute towards achieving compliance by the Secretary of State with section 1 of the Climate Change Act 2008 (UK net zero emissions target) and section 5 of the Environment Act 2021 (environmental targets)

35. As referred elsewhere, our proposals are intended to increase transparency on the characteristics associated to the issuers and public offers that choose to raise capital through POPs. In this context, we proposed to include information about material sustainability characteristics of the issuer as part of our minimum information requirements. Furthermore, we would expect other sustainability-related information to be disclosed to investors if material in the context of a specific public offer.

The general principle that consumers should take responsibility for their decisions

36. Please see paragraph 13 above.

The responsibilities of senior management

37. Our proposals reflect the principle that senior management should remain ultimately responsible for certain decisions. This is reflected in two particular ways: (i) the applicability of Senior Management and Certification Regime-related provisions and (ii) the need for the disclosure summary (ie, the key piece of information investors are provided with) to be subject to the appropriate internal checks and governance mechanisms.

The desirability of recognising differences in the nature of, and objectives of, businesses carried on by different persons including mutual societies and other kinds of business organisation

38. The outcomes-based approach reflected in our proposals allows for a more targeted focus when considering the information needs of investors in the light of the specificities of an issuer or a public offer. This is expected to give adaptability to the regime and allow POP operators to adjust their due diligence exercise to the circumstances of each public offer they host.

The principle that we should exercise of our functions as transparently as possible

39. During our policy development process, we have promoted extended engagement and outreach with external stakeholders. In this context, we have given due consideration to their views and perspectives, including by means of a publication of a Summary of Feedback.

Expected effect on mutual societies

40. The FCA does not expect the proposals in this paper to have a significantly different impact on mutual societies. Our rules do not apply to mutual societies, nor would we anticipate a mutual society seeking to raise funds via a POP operator or to be otherwise impacted by the new framework and our proposals.

Compatibility with the duty to promote effective competition in the interests of consumers

41. In preparing the proposals as set out in this consultation, we have had regard to the FCA's duty to promote effective competition in the interests of consumers. We consider setting proportionate, consistent and clear standards around due diligence and disclosure expected from POPs should enable competition while ensuring appropriate protection for consumers. We have been sensitive to the risks that excessive regulation may prevent operating a POP to be commercial viable, alongside seeking to ensure standards that will enable investors to make informed decisions and minimise risk of harm from fraudulent offers.

Equality and diversity

42. We are required under the Equality Act 2010 in exercising our functions to 'have due regard' to the need to eliminate discrimination, harassment, victimisation and any other conduct prohibited by or under the Act, advance equality of opportunity between persons who share a relevant protected characteristic and those who do not, to and foster good relations between people who share a protected characteristic and those who do not.

43. As part of this, we ensure the equality and diversity implications of any new policy proposals are considered. The outcome of our consideration in relation to these matters in this case is stated in paragraph 2.29 to 2.31 of the Consultation Paper.

Annex 5

Abbreviations used in this paper

Abbreviation	Description
AR	Appointed Representative
CASS	Client Assets Sourcebook
CBA	Cost-Benefit Analysis
CCI	Consumer Composite Investment
COBS	Conduct of Business Sourcebook
COMP	Compensation Sourcebook
CP	Consultation Paper
Duty	Consumer Duty
EANDCB	Estimated Annualised Net Direct Cost to Businesses
EP	Engagement Paper
ESG	Environmental, Social and Governance
EU	European Union
FCA	Financial Conduct Authority
FRF	Future Regulatory Framework
FSCS	Financial Services Compensation Scheme
FSMA	Financial Services and Markets Act 2000
ICARA	Internal Capital Adequacy and Risk Assessment
IPRU-INV	Interim Prudential Sourcebook for Investment Businesses
LCF	London Capital & Finance
MiFID	Markets in Financial Instruments Directive

Abbreviation	Description
MIFIDPRU	Prudential Sourcebook for MiFID Investment Firms Sourcebook
MTF	Multilateral Trading Facility
NAV	Net Asset Value
NMMI	Non-Mass Market Investments
NMPI	Non-Mainstream Pooled Investments
NPV	Net Present Value
PISCES	Private Intermittent Securities and Capital Exchange Systems
POATRs	Public Offers and Admissions to Trading Regulations 2024
POP	Public Offer Platform
PRIIPs	Packaged Retail and Insurance-based Investment Products
PRIN	Principles of Business Sourcebook
PROD	Product Intervention and Product Governance Sourcebook
PV	Present Value
RMMI	Restricted Mass Market Investments
SCM	Standardised Costs Model
SIS	Speculative Illiquid Securities
SRF	Smarter Regulatory Framework
SUP	Supervision Sourcebook
SYSC	Senior Management Arrangements, Systems and Controls Sourcebook
UK	United Kingdom

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Appendix 1

Draft Handbook text

PUBLIC OFFERS OF RELEVANT SECURITIES (OPERATING AN ELECTRONIC SYSTEM) INSTRUMENT 2024

Powers exercised

A. The Financial Conduct Authority ("the FCA") makes this instrument in the exercise of the following powers and related provisions in the Financial Services and Markets Act 2000 ("the Act"):

(1) section 137A (The FCA's general rules);
(2) section 137H (General rules about remuneration);
(3) section 137R (Financial promotion rules);
(4) section 137T (General supplementary powers);
(5) section 138D (Action for damages);
(6) section 139A (Power of the FCA to give guidance);
(7) section 213 (The compensation scheme); and
(8) section 214 (General).

B. The rule-making powers listed above are specified for the purpose of section 138G(2) (Rule-making instruments) of the Act.

Commencement

C. This instrument comes into force on [*date*].

Amendments to the FCA Handbook

D. The modules of the FCA's Handbook of rules and guidance listed in column (1) below are amended in accordance with the Annexes to this instrument listed in column (2).

(1)	(2)
Glossary of definitions	Annex A
Senior Management Arrangements, Systems and Controls sourcebook (SYSC)	Annex B
Interim Prudential sourcebook for Investment Businesses (IPRU-INV)	Annex C
Conduct of Business sourcebook (COBS)	Annex D
Product Intervention and Product Governance sourcebook (PROD)	Annex E
Compensation sourcebook (COMP)	Annex F

Notes

E. In the Annexes to this instrument, the notes (indicated by "**Note:**" or "*Editor's note:*") are included for the convenience of readers but do not form part of the legislative text.

Citation

F. This instrument may be cited as the Public Offers of Relevant Securities (Operating an Electronic System) Instrument 2024.

By order of the Board
[*date*]

Annex A

Amendments to the Glossary of definitions

[*Editor's note*: The text in this Annex takes into account the changes proposed by the consultation paper 'Consultation on the new Public Offers and Admissions to Trading Regulations regime (POATRs)' (CP24/12). Some of the changes to the Glossary proposed in that consultation paper are repeated here for ease of readers' reference.]

In this Annex, underlining indicates new text and striking through indicates deleted text, unless otherwise stated.

Insert the following new definitions in the appropriate alphabetical position. The text is not underlined.

disclosure summary	the statement referred to at *COBS* 23.7.1R.
investor client	a *client* who is an investor or prospective investor in the *relevant securities* to which a *qualifying public offer* relates (including any agent as set out in *COBS* 2.4.3R) and not the *issuer*.
offer of relevant securities to the public	has the meaning in regulation 7 of the *Public Offers and Admissions to Trading Regulations*, in summary, a communication to any *person* which presents sufficient information on: (a) the *relevant securities* to be offered; and (b) the terms on which they are to be offered, to enable an investor to decide to buy or subscribe for the *relevant securities* in question.
operating an electronic system for public offers of relevant securities	the *regulated activity*, specified in article 25DB of the *Regulated Activities Order*, which is, in summary, operating an electronic system by means of which a *qualifying public offer* is made.
operating a POP	*operating an electronic system for public offers of relevant securities*.
POP	a *public offer platform*.
POP operator	a *firm* carrying on the activity of *operating a POP*.
public offer platform	an electronic system by means of which a *qualifying public offer* is made.

public offer prohibition	the prohibition of public offers of *relevant securities* imposed by regulation 12 of the *Public Offers and Admissions to Trading Regulations*.
Public Offers and Admissions to Trading Regulations	the Public Offers and Admissions to Trading Regulations 2024 (SI 2024/105).
qualified investor	has the meaning in paragraph 15 of Schedule 1 to the *Public Offers and Admissions to Trading Regulations*.
qualifying public offer	(as defined in article 25DB of the *Regulated Activities Order*) an *offer of relevant securities to the public* in the *United Kingdom* that meets the following conditions: (a) 'Condition A' is that, if paragraph 13 of Schedule 1 to the *Public Offers and Admissions to Trading Regulations* (which exempts offers made by means of a regulated platform) were disregarded, the offer would be prohibited by regulation 12(1) of those Regulations; (b) 'Condition B' is that the *relevant securities*: (i) fall within regulation 5(1)(a) of the *Public Offers and Admissions to Trading Regulations* (which defines 'relevant securities' for the purposes of those Regulations) and are investments of a kind specified by Part 3 of the *Regulated Activities Order*; or (ii) fall within regulation 5(1)(b) of the *Public Offers and Admissions to Trading Regulations* as a result of being investments of the kind specified by article 77 of the *Regulated Activities Order*; and (c) 'Condition C' is that the *relevant securities* are not *issued* or to be *issued* by the *POP operator*.
relevant security	has the meaning in regulation 5 of the *Public Offers and Admissions to Trading Regulations*, in summary: (a) *transferable securities*, other than *excluded securities*; and (b) investments that are: (i) *debentures*; but (ii) not *transferable securities* or *excluded securities*.

Amend the following definitions as shown.

corporate finance business	(a)	*designated investment business* (other than *operating a POP*) carried on by a *firm* with or for:
		…
	…	
designated investment business	any of the following activities, specified in Part II of the *Regulated Activities Order* (Specified Activities), which is carried on by way of business:	
	…	
	(daa)	…
	(dab)	*operating an electronic system for public offers of relevant securities* (article 25DB);
	…	
excluded security	(1)	(in *PRM* and for the purposes of *COBS* 23) has the meaning in regulation 6 of the *Public Offers and Admissions to Trading Regulations*.
	(2)	(in *COLL*, *COBS* (except *COBS* 23) and *CREDS*) any of the following *investments*:
		…
guarantee	…	
	(2)	(in ~~*PRR*~~ *PRM* and *COBS* 23) ~~(as defined in the *PR Regulation*)~~ any arrangement intended to ensure that any obligation material to the issue will be duly serviced, whether in the form of guarantee, surety, keep well agreement, mono-line insurance policy or other equivalent commitment.
issuer	…	
	(4)	(in ~~*PRR* and~~ *PRM*, *COBS* 23 and *MAR* 5ZA, *FEES* in relation to ~~*PRR*~~ *PRM*, *COBS* 23 and *MAR* 5ZA) ~~(as defined in article 2(h) of the *Prospectus Regulation*) a legal person who issues or proposes to issue the *transferable securities* in question~~ has the meaning in regulation 3 of the *Public Offers and Admissions to Trading Regulations*, in relation to:
		(a) an *offer of relevant securities to the public*; or

(b) the *admission to trading*, or proposed *admission to trading*, of *transferable securities* on a *regulated market* or *primary MTF*,

means the *person* who is issuing, proposes to issue or has issued the securities in question.

…

offer …

(4) …

(5) (in *COBS* 23) an *offer of relevant securities to the public*.

regulated activity …

(B) in the *FCA* Handbook: (in accordance with section 22 of the *Act* (Regulated activities)) the activities specified in Part II (Specified activities), Part 3A (Specified activities in relation to information) and Part 3B (Claims management activities in Great Britain) of the *Regulated Activities Order*, which are, in summary:

...

(gga) …

(ggb) *operating an electronic system for public offers of relevant securities* (article 25DB);

…

remuneration …

(6) (in *SYSC* 19F.4) any commission, *fee*, charge or other payment, including an economic benefit of any kind or any other financial or non-financial advantage or incentive offered or given in respect of the activity of *operating a POP*.

securities and futures firm a *firm* whose *permitted activities* include *designated investment business* or *bidding in emissions auctions*, which is not an *authorised professional firm*, *bank*, *MIFIDPRU investment firm*, *building society*, *collective portfolio management firm*, *credit union*, *friendly society*, *ICVC*, *insurer*, *media firm* or *service company*, whose permission does not include a *requirement* that it comply with *IPRU(INV)* 5 (Investment management firms) or 13 (Personal investment firms), and which is within (a), (b), (c), (d), (e) , (f), (g) or (ga):

…

(c) a *firm*:

…

(ii) for which the most substantial part of its gross income (including commissions) from the *designated investment business* included in its *Part 4A permission* is derived from one or more of the following activities (based, for a *firm* given a *Part 4A permission* after *commencement*, on the business plan submitted as part of the *firm's* application for *permission* or, for a *firm* authorised under section 25 of the Financial Services Act 1986, on the *firm's financial year* preceding its *authorisation* under the *Act*):

…

(G) activities related to *spread bets*; or

(H) *operating an electronic system for public offers of relevant securities*;

…

transferable security (1) (in ~~*PRR*~~, *PRM*, *UKLR* and *DTR* and for the purposes of *COBS* 23) (as defined in section 102A of the *Act*) anything which is a transferable security for the purposes of *MiFIR*, other than money-market instruments for the purposes of *MiFIR* which have a maturity of less than 12 *months*.

[**Note:** regulation 4 of the *Public Offers and Admissions to Trading Regulations*]

…

Annex B

Amendments to the Senior Management Arrangements, Systems and Controls sourcebook (SYSC)

Insert the following new section after SYSC 19F.3 (Funeral plan remuneration incentives). All the text is new and is not underlined.

19F.4 Public offer platform remuneration incentives

Application

19F.4.1 R This section applies to a *firm* carrying on the activity of *operating a POP*.

19F.4.2 R (1) A *firm* must not:

(a) be *remunerated*; or

(b) *remunerate* or assess the performance of its *employees*,

in a way that conflicts with its duty to comply with *COBS* 2.1, in respect of its *investor clients*.

(2) In particular, a *firm* must not make any arrangements by way of *remuneration*, sales target or otherwise that could provide an incentive to itself, or its *employees*, to recommend or offer particular *relevant securities* to a *customer*.

(3) *Remuneration* and similar incentives must not be solely or predominantly based on quantitative commercial criteria and must take fully into account appropriate qualitative criteria reflecting compliance with the applicable regulations, the fair treatment of *clients* and the quality of services provided to *clients*.

19F.4.3 G A *firm* should be aware of:

(1) the requirements in relation to *remuneration* policies (*SYSC* 4.3A.1AR) and conflicts of interest (*SYSC* 10.1.7R);

(2) Finalised Guidance 13/01 entitled ‘Risks to customers from financial incentives’ published in January 2013; and

(3) Finalised Guidance 15/10 entitled ‘Risks to customers from performance management at firms’ published in July 2015.

Annex C

Amendments to the Interim Prudential sourcebook for Investment Businesses (IPRU-INV)

In this Annex, underlining indicates new text and striking through indicates deleted text.

3 Financial resources for Securities and Futures Firms which are not MiFID Investment Firms

…

Absolute minimum requirement – General rule

3-72 R A *firm's* absolute minimum requirement is:

(a) for an *arranger* to which (aa) does not apply: £10,000

(aa) for an *arranger* with *permission* to operate an electronic system by means of which a *qualifying public offer* is made, in accordance with article 25DB of the *Regulated Activities Order*: £75,000;

…

…

Appendix 1 GLOSSARY OF TERMS FOR IPRU(INV) 3

…

…

arranger means a *firm* -

(a) whose sole *investment business* consists of activities within the following articles of the ~~Regulated Activities Order~~ *Regulated Activities Order* -

…

(ii) …

(iia) article 25DB (*operating an electronic system for public offers of relevant securities*);

…

…

…

corporate finance business	means -	
	(a)	*designated investment business* (other than *operating a POP*) carried on by a *firm* with or for:
		…
	…	

…

investment business	means any of the following regulated activities specified in Part II of the ~~Regulated Activities Order~~ *Regulated Activities Order* and which is carried on by way of business:	
	…	
	(d)	…
	(da)	article 25DB (*operating an electronic system for public offers of relevant securities*);
	…	

…

Annex D

Amendments to Conduct of Business sourcebook (COBS)

In this Annex, underlining indicates new text and striking through indicates deleted text, unless otherwise stated.

1 Application

…

1 Annex 1 Application (see COBS 1.1.2R)

…

Part 2: Where?

Modifications to the general application according to location

…		
2.	**Business with UK clients from overseas establishments**	
…		
2.2	G	…
<u>3.</u>	**<u>Public offer platforms</u>**	
<u>3.1</u>	<u>R</u>	<u>This sourcebook applies to a *firm* with respect to its activity of *operating a POP* whether from an establishment maintained by it in the *United Kingdom* or overseas.</u>

…

14 Providing product information to clients

…

14.3 Information about designated investments (non-MiFID provisions)

Application

14.3.1 R This section applies to a *firm* in relation to:

…

(2) any of the following *regulated activities* when carried on for a *retail client*:

…

(e) *operating an electronic system in relation to lending*, but only in relation to facilitating a person becoming a lender under a *P2P agreement*~~.~~; or

(f) *operating a POP*,

…

…

Insert the following new chapter, COBS 23, after COBS 22 (Restrictions on the distribution of certain complex investment products). All of the text is new and is not underlined.

23 Operating a public offer platform

23.1 Application

Who? What?

23.1.1 R This chapter applies to a *firm* that carries on the activity of *operating a POP*.

Where?

23.1.2 R (1) With the exception of *COBS* 23.10, this chapter applies in relation to the making of a *qualifying public offer*.

(2) *COBS* 23.10 applies to a *POP operator* that also facilitates *offers of relevant securities to the public* in the *United Kingdom* which are not *qualifying public offers*.

23.1.3 G (1) A *qualifying public offer* is an *offer of relevant securities to the public* in the *United Kingdom* that satisfies certain conditions.

(2) The effect of *COBS* 23.1.2R and *COBS* 1 Annex 1 Part 2 3.1R is to define the territorial application of this chapter by reference to the making of an *offer of relevant securities to the public* in the *United Kingdom*.

(3) This means that this chapter applies whether or not the *POP* is operated by a *firm* from an establishment maintained by it in the *United Kingdom*.

Context

23.1.4 G (1) This chapter sets out the detailed obligations that are specific to a *firm* when *operating a POP*.

(2) An *offer of relevant securities to the public* in the *United Kingdom* that is made by means of a *POP* is exempt from the *public offer prohibition*.

(3) This chapter is not exhaustive as to the *rules* that apply to *firms* facilitating *qualifying public offers*. The obligations in this chapter apply in addition to other applicable provisions of this sourcebook.

(4) *Firms* are also reminded of their obligations under *Principle* 12 and *PRIN* 2A.

[**Note:** regulation 12 of, and Schedule 1 to, the *Public Offers and Admissions to Trading Regulations*]

Interpretation

23.1.5 G (1) In this chapter, references to a *POP operator* 'facilitating a *qualifying public offer*' are to such a *person* providing the means by which a *qualifying public offer* is made.

(2) To the extent that the *POP operator* is bringing about transactions in the *securities* which are the subject of a *qualifying public offer*, it is likely to be carrying on other *regulated activities* (such as *arranging* or *dealing* activities) and additional *permissions* will be needed.

Guidance

23.1.6 G (1) Except in *COBS* 23.10, the obligations in this chapter only apply where there is a *qualifying public offer*.

(2) The obligations in this chapter do not apply where a *firm* provides the means by which an offer of securities, other than a *qualifying public offer*, is made. This may be where:

(a) an offer is made exclusively to *persons* other than those in the *United Kingdom*; or

(b) the offer is of a kind, or consisting of a combination of 2 or more kinds of offer, specified in Part 1 of Schedule 1 to the *Public Offers and Admissions to Trading Regulations* other than paragraph 13 of that Schedule (for example, because the offer is made solely to *qualified investors* or where the total consideration for the securities being offered does not exceed the relevant threshold).

(3) A *firm* that is facilitating the communication of an offer of securities other than a *qualifying public offer*, where that offer is or is likely to be made to a *client* who is not a *qualified investor*, should take

account of this chapter as if it were *guidance* and as if 'should' appeared instead of 'must'.

23.1.7 G *Operating a POP* is not within the scope of business for which an *appointed representative* may be exempt.

23.1.8 G *Operating a POP* is not *MiFID, equivalent third country or optional exemption business*. However, a *firm* may carry on *MiFID, equivalent third country or optional exemption business* if it carries on other activities in addition to *operating a POP* (for example, the reception and transmission of orders).

23.2 General provisions and purpose

Introduction

23.2.1 G (1) This chapter sets out the general obligations on *firms* when providing the means by which a *qualifying public offer* is made.

(2) These obligations reflect the role of the *POP operator* in providing a gateway to the making of *offers of relevant securities to the public* (and, in particular, to *persons* who are not *qualified investors*) in the *United Kingdom*.

(3) This chapter requires a *firm*:

(a) before facilitating a *qualifying public offer*:

(i) to gather certain information about the *issuer* and the proposed *offer*;

(ii) to take steps to verify that information;

(iii) to assess the plausibility of non-factual claims to be communicated in relation to the *offer*;

(iv) to assess the creditworthiness of the *issuer*; and

(v) on the basis of (i) to (iv), to determine whether it is appropriate to facilitate the *qualifying public offer*; and

(b) in facilitating a *qualifying public offer*, to provide certain information to *investor clients*.

Purpose

23.2.2 G In complying with the detailed requirements in this chapter, a *firm* should have regard to the purposes of these requirements, which are to:

(1) protect market integrity, including by ensuring that *POPs* are not used to facilitate *financial crime*; and

(2) secure an appropriate degree of protection for *consumers*, including by ensuring that:

(a) *investor clients* can make informed and effective decisions as to whether or not to participate in a *qualifying public offer*, including (but not limited to) being able to make an adequate assessment of the risks and benefits; and

(b) *POPs* are not used to facilitate *qualifying public offers* which may cause reasonably foreseeable harm to an *investor client*.

[**Note:** *GEN* 2.2.1R]

Reasonableness standard

23.2.3 R The obligations in this chapter are to be interpreted in accordance with the standard that could reasonably be expected of a prudent *firm* carrying on the same activity and taking appropriate account of the needs and characteristics of its *clients*.

23.3 Due diligence

Information gathering

23.3.1 R Before facilitating a *qualifying public offer*, a *firm* must obtain information about the *issuer* and the proposed *qualifying public offer* that:

(1) is sufficient to enable the *firm* to:

(a) understand:

(i) the identity and nature of the *issuer*, including its business model; and

(ii) the key risks associated with the proposed *qualifying public offer*;

(b) carry out a reasonable assessment of the creditworthiness of the *issuer* in accordance with *COBS* 23.5;

(c) determine the appropriateness of facilitating the *qualifying public offer* in accordance with *COBS* 23.6; and

(d) present such information as a reasonable *investor client* would require to make an informed decision on whether or not to participate in the *offer*, in accordance with *COBS* 23.7; and

(2) addresses at least the matters specified in *COBS* 23.3.2R and *COBS* 23.3.5R.

Core information

23.3.2 R A *firm* must obtain at least the following information about the *issuer*:

(1) general information, including (so far as relevant):

(a) the current and previous names of the *issuer*, including any trading names;

(b) details of the *issuer's* incorporation, including the date and place of incorporation and company registration number;

(c) contact details, including the *issuer's* registered office address and registered email address;

(d) the details of *persons* ('A') in relation to the *issuer* ('B') with:

(i) 10% or more of the *shares* or voting power in B or in a parent undertaking ('P') of B; or

(ii) the ability to exercise significant influence over the management of B or P;

(e) information about key individuals associated with the *issuer* (including, but not limited to, directors and senior management), including:

(i) their name and current position;

(ii) their academic background and professional experience; and

(iii) such other information as is necessary to enable the *firm* to satisfy itself as to the fitness and propriety of those individuals to perform their respective roles (see *COBS* 23.3.3G);

(f) *group* information, including the *group* structure, the *issuer's* position in the *group* and any *subsidiaries* of the *issuer*;

(g) details of the *issuer's* online presence, such as the *issuer*'s website and social media accounts;

(h) a description of the *issuer's* business model, including the products or services offered by the *issuer*;

(i) information about any *sustainability characteristics* of the *issuer* which are material to its business model;

(j) if it is material to the *issuer's* business or profitability, information regarding the extent to which the *issuer* is dependent on:

(i) patents or licences; and

(ii) new manufacturing processes;

(k) key risk factors relating to the *issuer* or *relevant securities* (see *COBS* 23.3.4G);

(l) details of:

(i) any litigation to which the *issuer* is, or to which it is likely to become, a party; and

(ii) any litigation to which any member of the *issuer's group* is, or is likely to become, a party that may have a material impact on the *issuer*; and

(m) details about contracts (other than contracts entered into in the ordinary course of business):

(i) to which the *issuer* or any member of the *issuer's group* is a party; and

(ii) that are material to, or may have a material impact on, the *issuer*; and

(2) financial information, including (so far as is relevant):

(a) the *issuer's* most recent financial reports and accounts, including a confirmation as to whether the accounts have been audited;

(b) details of the *issuer's* financing structure, including its liabilities and sources of capital (such as any previous capital raising either through debt or equity);

(c) details of any fees, commissions or other charges that the *issuer* is likely to pay to third parties which could affect the ability of the *issuer* to deliver rates of return on the *relevant securities*;

(d) the most recent *group* financial accounts of the *issuer*; and

(e) information concerning the creditworthiness of the *issuer* and any *guarantor*.

23.3.3 G In *COBS* 23.3.2R(1)(e), information about the fitness and propriety of key individuals that a *firm* will need to obtain :

(1) will depend on the role of the relevant individual and the nature of the *issuer's* business;

(2) having regard to the purpose of the *rules* in this chapter (*COBS* 23.2.2G), should be such as to satisfy the *firm* as to the relevant individuals':

(a) honesty and integrity;

(b) competence and capability; and

(c) financial soundness; and

(3) may include, where relevant and without limitation:

(a) checking for convictions for criminal offences (where possible), particularly in relation to dishonesty, fraud or financial crime;

(b) establishing whether the individual has been the subject of any adverse finding or any settlement in civil proceedings in connection with misconduct, fraud or the formation or management of a body corporate;

(c) establishing whether the individual has been a *director*, *partner*, or concerned in the management, of a business that has gone into insolvency, liquidation or administration while the individual has been connected with that organisation or within one year of that connection;

(d) establishing whether the individual has ever been disqualified from acting as a *director* or disqualified from acting in any managerial capacity;

(e) confirming whether the individual has previously been declared bankrupt.

23.3.4 G In *COBS* 23.3.2R(1)(k), 'key risks' are those risks:

(1) which are specific to the *issuer* or *qualifying public offer*;

(2) which, were they to crystalise, would have a material adverse impact on the *issuer* and/or its business; and

(3) in relation to which there is more than a remote possibility of the risk crystalising.

23.3.5 R A *firm* must obtain at least the following information about the proposed *qualifying public offer* (so far as is relevant):

(1) the target amount to be raised through the *qualifying public offer*;

(2) the amount raised or likely to be raised by the *issuer* from any other *offer of relevant securities to the public* which:

(a) was closed, or is expected to close, in the 12 *months* prior to the date on which the *qualifying public offer* is expected to open; or

(b) is open, or expected to be opened by the *issuer*, before the date on which the *qualifying public offer* is expected to close;

(3) the target deadline for the closure of the *qualifying public offer*;

(4) a description of:

(a) the rights attached to the *relevant securities* to be offered;

(b) how those rights relate to rights attaching to other *securities* or classes of *securities* of the *issuer*; and

(c) the impact of the proposed offer on the *issuer's* shareholder structure;

(5) the proposed use of funds by the *issuer* and any third party;

(6) a description of any tax relief available for *investor clients*;

(7) where the *relevant security* is a debt instrument, the duration of the term and any interest payments; and

(8) where the *issuer* is a closed-ended collective investment undertaking:

(a) information regarding the investment policy, strategy and objectives;

(b) a summary of the portfolio (or proposed portfolio);

(c) its most recent net asset value; and

(d) details of any *person* responsible for managing the investments of the closed-ended collective investment undertaking (whether directly or on a delegated or outsourced basis).

Additional information gathering

23.3.6 R (1) If the information gathered in accordance with *COBS* 23.3.2R and *COBS* 23.3.5R is not sufficient to meet the requirement of *COBS* 23.3.1R, a *firm* must gather additional information.

(2) In determining what further information the *firm* may require, it must have regard to:

(a) the structure and complexity of the *qualifying public offer*;

(b) the industry to which the *qualifying public offer* relates, including whether there is relevant industry information which is reasonably likely to influence the value of the *issuer's* business; and

(c) the business model of the *issuer* and whether it involves any element that may present an increased risk of loss or harm to *investor clients*.

23.3.7 G The characteristics of a business model that might reasonably be expected to present an increased risk of loss or harm to *investor clients* are those which could reasonably be expected to have a material impact on:

(1) the ability of the *issuer* to deliver an expected rate of return; or

(2) the creditworthiness, or viability of the business, of the *issuer*, including whether the *issuer* lends money to other businesses.

23.3.8 R A *firm* must also obtain any information or materials the *issuer* intends to communicate in relation to the *qualifying public offer*.

23.3.9 G The information, materials or communications in *COBS* 23.3.8R include (but are not limited to):

(1) any *financial promotions* relating to the *qualifying public offer*; and

(2) the terms of, and any contractual documentation to be used in relation to, the *qualifying public offer*.

23.3.10 G (1) In respect of a particular *qualifying public offer*, a *firm* may have regard to information obtained in the course of previous dealings with the *issuer* for the purposes of complying with the requirements of this section.

(2) Before having regard to the information in (1), a *firm* should consider whether:

(a) it should obtain the information again (for example, because the passage of time could have affected its validity); and

(b) it should take particular steps to verify that information in accordance with the requirements in *COBS* 23.4 to ensure that it remains accurate.

23.4 Verification and plausibility assessments

Purpose

23.4.1 G (1) This section requires a *firm* to take reasonable steps to:

(a) verify factual information that it receives under *COBS* 23.3; and

(b) assess the plausibility of non-factual information in relation to a proposed *qualifying public offer*.

(2) The purpose of this exercise is to enable the *firm* to satisfy itself that:

(a) the information which the *firm* obtains in accordance with *COBS* 23.3 is sufficiently complete and accurate to enable the *firm* to:

(i) carry out a reasonable assessment of the creditworthiness of the *issuer*, in accordance with *COBS* 23.5;

(ii) properly assess the appropriateness of facilitating the *qualifying public offer* in accordance with *COBS* 23.6; and

(iii) be satisfied that the information that it discloses to *investor clients* in accordance with *COBS* 23.7 is complete and accurate; and

(b) non-factual information relating to the *qualifying public offer*, and on which *investor clients* may make decisions to invest, is plausible.

23.4.2 G Non-factual information is that information which cannot be objectively verified as it is reliant upon the occurrence of a future event, including growth forecasts and expected rates of return.

Verification

23.4.3 R (1) Before facilitating a *qualifying public offer*, a *firm* must take reasonable steps to satisfy itself that the information received in accordance with *COBS* 23.3:

(a) is materially complete; and

(b) does not include any material inaccuracies or inconsistencies.

(2) In deciding what steps are reasonable for the purposes of (1), a *firm* must have regard to:

(a) the location of the *issuer*;

(b) the nature of the *issuer's* business and associated risks; and

(c) any adverse information identified in relation to the *issuer*.

(3) For the purposes of (1)(b), the steps must include obtaining appropriate corroborative evidence that confirms the accuracy of the information provided by the *issuer* from:

(a) where appropriate, the *issuer* itself; or

(b) relevant third parties.

Plausibility assessment

23.4.4 R (1) This *rule* applies in relation to non-factual information that a *firm* obtains from an *issuer* and that will, or is likely to, be communicated to *investor clients*.

(2) Before facilitating a *qualifying public offer*, a *firm* must take reasonable steps to satisfy itself that non-factual information about the *issuer* or *qualifying public offer* is plausible.

23.4.5 G The steps that a *firm* might take in order to satisfy itself as to the plausibility of non-factual information include:

(1) considering the factual information on which such information is based; and

(2) employing data relating to the *issuer* to test the credibility of assertions made on a forward-looking basis.

23.4.6 G In determining whether non-factual information is plausible, a *firm* should consider factors relevant to the *issuer* and the *qualifying public offer*, including, but not limited to:

(1) the characteristics of the *issuer*, including its business model, size, resources (including financial resources) and leadership personnel;

(2) market conditions, including the industry in which the *issuer* operates;

(3) the purpose and size of the issuance, including its foreseeable impact on the *issuer's* business; and

(4) whether the information is consistent with other information provided to the *firm*.

Interaction with fair, clear and not misleading and financial promotions

23.4.7 G (1) Plausibility refers to the likelihood of claims and expectations set out in non-factual information being realised.

(2) Assessing the plausibility of information is an integral part of ensuring that information provided to *investor clients* is fair, clear and not misleading.

(3) In the course of ensuring that information communicated to *investor clients* is fair, clear and not misleading, a *firm* needs to pay particular regard to the plausibility of non-factual information relating to the *issuer* or the *qualifying public offer*.

23.4.8 R If another *firm* (F2) is involved in *approving financial promotions* relating to the *qualifying public offer* to be facilitated by a *firm* (F1):

(1) F1 may rely upon any information about the *issuer* or *qualifying public offer* which it may have received from F2 if it can show that it was reasonable for it to do so; and

(2) F1 will remain responsible for complying with its obligations in this chapter.

Statements prepared by experts

23.4.9 R If a *firm* receives information which consists of a statement prepared by an expert, it is entitled to:

(1) regard the information as accurate without taking further steps to verify it; and

(2) regard any non-factual claims contained therein as plausible,

unless it is aware of any reason to doubt the expert's independence or credibility or the statement's accuracy.

23.5 Creditworthiness assessment

23.5.1 R (1) Before facilitating a *qualifying public offer*, a *firm* must carry out a reasonable assessment of the *issuer's* creditworthiness.

(2) The assessment in (1) must be based on sufficient information, taking into account those factors which would reasonably be considered relevant to the *issuer's* creditworthiness, including at least:

(a) the *issuer's* revenue and the diversity of sources from which that revenue is generated;

(b) the *issuer's* operating and cost structure;

(c) the *issuer's* current liabilities;

(d) the risk profile of the *issuer* or any *guarantor*; and

(e) external circumstances of which the *firm* can reasonably be expected to be aware, including market conditions which may have a significant impact on the *issuer's* cashflow.

23.5.2 G (1) In carrying out the assessment in *COBS* 23.5.1R(1), the information on which the assessment is based may be obtained from the *issuer* or, where appropriate, from other relevant sources of information including a credit reference agency.

(2) A creditworthiness assessment is particularly important where the *relevant security* is a debt instrument, to ensure that the *issuer* would be reasonably likely to meet its repayment obligations under the terms and conditions of the *relevant securities*.

23.5.3 R A *firm* is entitled to rely on a creditworthiness assessment undertaken by an expert and prepared in a way that meets the requirements of *COBS* 23.5.1R(2), unless the *firm* is aware of any reason to doubt the expert's credibility or independence or the assessment's accuracy.

23.6 Assessment by the public offer platform

23.6.1 R (1) Before facilitating a *qualifying public offer*, a *firm* must determine whether it is appropriate for it do so.

(2) For the purposes of reaching the determination in (1), a *firm* must consider whether:

(a) all of the information it is required to obtain by *COBS* 23.3 has been provided to the *firm* (or, if not provided, whether the omission can reasonably be explained);

(b) the information that has been obtained by the *firm* is sufficiently detailed and contains no inconsistencies or inaccuracies so that the *firm* can:

(i) understand the nature of the *issuer* (including its business model) and key risks associated with the *issuer* and the *qualifying public offer*; and

(ii) present such information as a reasonable *investor client* would require to make an informed decision whether or not to participate in the *offer*;

(c) the information obtained by the *firm* indicates that the *issuer*, and its key individuals, are fit and proper;

(d) there is any information:

(i) of a factual nature that the *firm* has been unable to verify to its satisfaction; or

(ii) of a non-factual nature that the *firm* has determined to be implausible,

(see (*COBS* 23.4));

(e) the *issuer* is creditworthy (see *COBS* 23.5);

(f) the supporting material provided by the *issuer*, which is likely to be communicated to *investor clients*, complies with regulatory requirements and, where the *communication* is also a *financial promotion*, the *financial promotions rules*; and

(g) there are any other factors of which the *firm* is, or ought reasonably to be, aware which may influence its determination as to the appropriateness of facilitating the *qualifying public offer*, having regard in particular to the nature of the *firm's clients* and the purpose of the *rules* in this chapter (*COBS* 23.2.2G).

(3) For the purposes of reaching the determination in (1), a *firm* must consider whether any findings arising from (2) are material.

23.6.2 R The reference to any other factors in *COBS* 23.6.1R(2)(g) includes (but is not limited to) where the *issuer* is not incorporated in the *United Kingdom*. In this case, the *firm* must assess whether the jurisdiction of the *issuer's* incorporation gives rise to particular risks that affect its assessment of whether it is appropriate to facilitate the *qualifying public offer*.

23.6.3 R In considering the materiality of any finding in *COBS* 23.6.1R, a *firm* must determine:

(1) the importance of the information for the purpose of enabling the *firm* to understand the *issuer's* business model and the key risks associated with the *qualifying public offer*;

(2) the relevance and importance of the finding to the *firm's* assessment of the fitness and propriety of the *issuer* and its offers; and

(3) how important the information is for the purpose of enabling *investor clients* to make an informed decision whether to participate in the *offer*.

23.6.4 G (1) Materiality is likely to depend on circumstances and context. The characteristics of the *issuer* and the proposed *qualifying public offer* will likely inform a consideration of the materiality of information.

(2) Information may be material in isolation or when considered in connection with other information.

(3) If a finding is material, the *firm* should consider whether it can communicate adequate information to *investor clients* such that the finding can be presented in a way that enables *investor clients* to clearly understand the potential impacts or relevance of the matter identified in the context of the *qualifying public offer*.

23.6.5 R Only once a *firm* has satisfied itself that it is appropriate to facilitate a *qualifying public offer* may it do so.

23.6.6 R A determination that it is not appropriate to facilitate a *qualifying public offer* does not preclude a *firm* from facilitating that *offer* if:

(1) the *issuer* adequately addresses the matters which led to that original determination; and

(2) subsequently, the *firm* determines that it is appropriate for it to facilitate the proposed *offer* in accordance with *COBS* 23.6.1R.

23.6.7 G *Firms* should be aware of the record keeping requirements in *COBS* 23.9, including in relation to making an adequate record of the basis on which the *firm* has satisfied itself that it is appropriate to facilitate the *qualifying public offer*.

23.7 Communication of qualifying public offers

Disclosure summary

23.7.1 R In the event that a *firm* assesses that is it appropriate to facilitate a *qualifying public offer*, it must prepare a statement (the 'disclosure summary') for that *offer* which contains a summary of:

(1) the information provided by the *issuer* or a third party to the *firm* for the purposes of the requirements in *COBS* 23.3;

(2) the verification the *firm* has undertaken regarding the accuracy of the factual information;

(3) the determinations that the *firm* has made as to the plausibility of any non-factual information about the *issuer* or *qualifying public offer*;

(4) its creditworthiness assessment of the *issuer*; and

(5) the assessment of appropriateness that the *firm* has undertaken with regard to the *issuer* and the *qualifying public offer*.

23.7.2 G The *disclosure summary* must also include the information set out at *COBS* 23.7.13R.

23.7.3 G Provided that it includes all the information required by *COBS* 23.7.1R, the *disclosure summary* may be prepared:

(1) in the course of the *firm's* activity to determine the appropriateness of facilitating the *qualifying public offer*; or

(2) after the decision to facilitate the *qualifying public offer* has been made.

23.7.4 G A *firm* is not required to include proprietary or commercially sensitive information in the *disclosure summary*. However, *firms* should consider whether it is appropriate for any such information to be summarised in a way that does not include the sensitive information.

Information to be made available to the investor client relating to the qualifying public offer

23.7.5 R (1) In relation to each *qualifying public offer* that it facilitates, a *firm* must make available to *investor clients*:

(a) the relevant *disclosure summary* prepared under *COBS* 23.7.1R;

(b) the most recent financial accounts of the *issuer* and a confirmation of whether they have been audited;

(c) the terms of, and any contractual documents relating to, the *qualifying public offer*; and

(d) such other information as an *investor client* may require in order to make an informed and effective decision as to whether or not to participate in the *offer*, including (but not limited to) being able to make an adequate assessment of the risks and benefits.

(2) The information in (1) must be made available to *investor clients* by means of the *POP* for as long as the *qualifying public offer* remains open to the public.

23.7.6 R For as long as a *qualifying public offer* remains open to the public, a *firm* must make available in real time the amount raised by the *issuer* by way of that *qualifying public offer*.

23.7.7 G For the purpose of *COBS* 23.7.5R(1)(b), a *firm* may provide a link which, when activated, directs the *investor client* to the relevant documents on Companies House.

Equality of information

23.7.8 G (1) *Firms* are reminded that regulation 13 of the *Public Offers and Admissions to Trading Regulations* (Disclosure of information) applies to an offer:

(a) that is made by means of a *POP*; and

(b) where the total consideration for the *relevant securities* being offered in the *UK* can amount, in value, to at least £1 million (or an equivalent amount) within a 12-*month* period.

(2) The effect of regulation 13 is that if material information is disclosed by, or on behalf of, an *issuer* or *offeror* and addressed to one or more selected investors in oral or written form, that information must be disclosed to all other investors to whom the offer is addressed.

Financial promotions

23.7.9 G *Firms* are also reminded of their obligations under *COBS* 4 relating to:

(1) a *firm's* role in *approving financial promotions*, as set out in *COBS* 4.10, including the requirement to ensure that the name of the *firm* that has *approved* a *financial promotion* is included in that *financial promotion* (*COBS* 4.5.2R and *COBS* 4.5.2AR);

(2) the requirements relating to the presentation of future performance information in *COBS* 4.6.7R; and

(3) the restrictions on the promotion of *restricted mass market investments* and *non-mass market investments* in *COBS* 4.12A and *COBS* 4.12B, respectively.

Other information to be made available to the investor client

23.7.10 R A *firm* must:

(1) publish on its website a comprehensive statement of its approach to:

(a) the due diligence required by this chapter; and

(b) managing conflicts of interests between *issuers* and *investor clients*; and

(2) ensure that the statements in (1) are easily accessible by *investor clients*.

23.7.11 G For the purpose of *COBS* 23.7.10R, a *firm* may publish a copy of its relevant policies, such as its due diligence policy (prepared in accordance with *COBS* 23.9.1R) and its *conflicts of interest policy*.

23.7.12 G The *disclosure summary* is intended to provide summary information about the due diligence undertaken by the *firm* in relation to the particular *issuer* and *qualifying public offer*, whereas the statement at *COBS* 23.7.10R(1)(a) relates to the framework of how the *firm* carries out that due diligence.

23.7.13 R (1) A *firm* must include in each *disclosure summary* and in an appropriate location on its website for each *qualifying public offer*:

(a) an indication that the *firm* has undertaken due diligence in relation to the offer; and

(b) a link to the statements required by *COBS* 23.7.10R.

(2) The statements in (1) must be presented in a way that will clearly and prominently bring them to the attention of *investor clients*.

23.8 Material changes to information and withdrawal rights

Material changes to information

23.8.1 R (1) This *rule* applies during the period when a *qualifying public offer* is open to the public.

(2) A *firm* must take the steps in (3) as soon as reasonably practicable on becoming aware of:

(a) a significant new piece of information or change to the information obtained for the purposes of *COBS* 23.3.2R to *COBS* 23.3.6R; or

(b) any material mistake or inaccuracy in, or omission from, the communications (including any untrue or misleading statement) provided to *investor clients* under *COBS* 23.7.5R.

(3) The *firm* must:

(a) assess whether the matter in (2) changes its assessment as to the appropriateness of facilitating the *qualifying public offer*;

(b) where relevant, update the *disclosure summary* with the relevant information or publish a supplementary statement with the relevant information;

(c) where relevant, update, or otherwise ensure that the *issuer* updates, the information in any additional documents communicated, or made available, to *investor clients*; and

(d) ensure that *investor clients* that have agreed to purchase or subscribe for *relevant securities* in response to the *qualifying public offer* are:

(i) notified of the matter in (2) and of any changes to the information communicated in relation to the *offer*; and

(ii) provided that the *relevant securities* have not yet been delivered, clearly informed of:

(A) their right to withdraw any acceptance of the *offer* where that acceptance was communicated before receipt of the notification in (i);

(B) the date on which the *offer* closes, being the date by which any right of withdrawal must be exercised; and

(C) the steps that the *investor client* must take to exercise the right of withdrawal.

23.8.2 R A *qualifying public offer* is open to the public during that period when a *person* may respond to that *offer* to buy or subscribe for the *relevant securities* in question.

23.8.3 R Where *relevant securities* are purchased or subscribed through a *person* other than the *POP operator* (including directly with the *issuer*), the *POP operator* must ensure that investors are provided with the same information and opportunity to withdraw as are specified in *COBS* 23.8.1R(3)(d).

23.9 Systems and controls relating to operating a public offer platform

Policies and procedures of public offer platforms

23.9.1 R A *firm* must:

(1) establish, implement and maintain clear and effective policies and procedures for complying with its obligations under this chapter;

(2) set out in writing the policies and procedures in (1) and have them approved by its *governing body* or senior personnel;

(3) assess and periodically review (at least every 12 *months*):

(a) the effectiveness of the policies in (1); and

(b) the *firm's* compliance with those policies and procedures and with its obligations in this chapter;

(4) following the review in (3), take appropriate steps to address any deficiencies in the policies and procedures or in the *firm's* compliance with its obligations; and

(5) establish, implement and maintain robust governance arrangements and internal control mechanisms designed to ensure the *firm's* compliance with (1) to (4).

23.9.2 R A *firm's* systems and controls must be sufficiently robust to ensure that:

(1) its assessment that it is appropriate to facilitate a *qualifying public offer*; and

(2) its *disclosure summary*,

are subject to sufficient checks and governance.

23.9.3 G The requirements in this section complement but are without prejudice to the broader requirements relating to *firms'* systems and controls in *SYSC*.

Terms and conditions between public offer platform operators and issuers

23.9.4 R A *firm* must set out in its relevant terms and conditions or written agreements with each *issuer* that the *issuer* must:

(1) disclose all reasonably required information in order for the *firm* to meet its due diligence obligations in *COBS* 23;

(2) disclose whether the *issuer* will raise (or is likely to raise) additional funds by other means whilst the *qualifying public offer* is open;

(3) (during the period when the *qualifying public offer* is open) give sufficiently detailed notice to the *firm* as soon as reasonably practicable upon becoming aware of:

(a) any changes, or proposed changes, to its business;

(b) changes to any of the information provided to the *firm*; or

(c) any omissions from, or mistakes or inaccuracies in, the information provided to the *firm*; and

(4) enable *investor clients* who agree to buy or subscribe to the *relevant securities* to exercise the right to withdraw their acceptance whilst the *qualifying public offer* is open in the circumstances specified in *COBS* 23.8.1R.

Record-keeping

23.9.5 R In relation to each *qualifying public offer* that it facilitates, a *firm* must:

(1) retain the information obtained for the purposes of this chapter; and

(2) make an adequate record of the due diligence undertaken in compliance with *COBS* 23, including, but not limited to:

(a) the basis on which the *firm* satisfied itself that it was appropriate to facilitate the *qualifying public offer*; or

(b) where the *firm* determines that it would not be appropriate to facilitate the *qualifying public offer*, the basis on which the *firm* made that decision, including the reason.

23.9.6 R A *firm* must retain the information and records in *COBS* 23.9.5R for a period of at least 5 years from the date on which the relevant *qualifying public offer* closes.

23.10 Non-qualifying offers: specific disclosures

23.10.1 R (1) This *rule* applies to a *POP operator* that also facilitates *offers of relevant securities to the public* in the *United Kingdom* which are not *qualifying public offers* ('non-qualifying offers').

(2) In relation to a non-qualifying offer, a *POP operator* must:

(a) clearly communicate the basis on which the *offer* is exempt from the *public offer prohibition*; and

(b) communicate a clear warning to its *clients* that the *offer* is not subject to the same detailed regulatory requirements as apply to *qualifying public offers*.

(3) The warning in (2)(b) must:

(a) include a link which, when activated, directs the *client* to information about the *POP operator's* approach to facilitating non-qualifying offers, including its approach to due diligence; and

(b) be presented in a way that will clearly and prominently bring it to the attention of any *client* who receives or accesses information relating to the *offer*.

23.10.2 G While, other than this section, the detailed requirements of *COBS* 23 do not apply to *firms* facilitating non-qualifying offers:

(1) *firms* should consider the *guidance* at *COBS* 23.1.6G(3); and

(2) other *rules* in the *Handbook* will be relevant, including (but not limited to) *Principle* 12 and *PRIN* 2A (provided that the distribution chain involves a *retail customer*) and *COBS* 4.

Annex E

Amendments to Product Intervention and Product Governance sourcebook (PROD)

In this Annex, underlining indicates new text.

1 Product Intervention and Product Governance Sourcebook (PROD)

…

1.3 Application of PROD 3

…

Manufacturing pathway investments and default options

1.3.16 G …

Application to a public offer platform operator

1.3.17 G (1) A *POP operator* is a *distributor* for the purposes of *PROD* 3 and must comply with *PROD* 3 to the extent that it is within the scope of *PROD* 1.3.1R.

(2) Where a *POP operator's* activity is not within the scope of *PROD* 1.3.1R, it must comply with the requirements in *Principle* 12 and *PRIN* 2A.

Annex F

Amendments to the Compensation sourcebook (COMP)

In this Annex, underlining indicates new text.

4 Eligible claimants

…

4.2 Who is eligible to benefit from the protection provided by the FSCS?

…

Persons not eligible to claim unless COMP 4.3 applies (see COMP 4.2.1R)

4.2.2 R This table belongs to COMP 4.2.1R

…	
(21)	…
(22)	In relation to the offer of any *relevant securities* on a *public offer platform*, any *issuer* of such securities.

Pub ref: 2-008272

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12 Endeavour Square London E20 1JN
Telephone: +44 (0)20 7066 1000
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