

Updated draft of the Public Offers and Admissions to Trading Regulations published

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On 27 November 2023, the draft of the Public Offers and Admissions to Trading Regulations 2023 was published and laid before Parliament. Once enacted, these regulations will replace the EU-derived Prospectus Regulation and accompanying instruments that currently provide the framework for public offers of securities and admission of securities to trading in the UK.

The [Public Offers and Admissions to Trading Regulations 2023](#) (POAT Regulations) represent an important part of the government's post-Brexit regulatory reform agenda, the aim of which is to replace EU-derived rules and regulations with rules set by the UK's financial services regulators within a framework established by Parliament. An earlier draft of the POAT Regulations was published in July 2023 (read our client update on the POAT Regulations from July 2023 [here](#)).

The POAT Regulations provide a framework for a new rules-based regime for regulating public offers of securities and admissions to trading on a UK regulated market or a primary multilateral trading facility (MTF), such as AIM, with the detailed rules to be set by the Financial Conduct Authority (FCA), known for the purpose of the Regulations as the FCA's 'designated activity rules'. As designated activities, the FCA will be responsible for the regulation of admissions, allowing it to specify when a prospectus is required, what it should contain and responsibility for its content. This approach is consistent with the government's aim to move financial services regulation to a 'comprehensive FSMA model' – one in which significant influence is delegated to the UK's key regulators, offering more control over regulatory agenda-setting and greater agility and adaptability to respond to developing market trends.

Updates since July 2023 draft

The draft of the POAT Regulations is largely unchanged from the near-final form version published in July 2023. However, there are a few technical and clarificatory changes that are worth noting. These include:

- Regulation 15(2)(a) provides that designated activity rules made by the FCA under the POAT Regulations may require the operator of a primary MTF that permits access to retail investors to require the issuer or a person requesting admission to trading to publish an MTF admission prospectus. The July 2023 draft of the POAT Regulations also included a person making an offer of transferrable securities to the public among those that could be required to publish an MTF admission prospectus, but this has now been removed.
- A new paragraph has been added at regulation 15(4)(a) that states the designated activity rules may not impose requirements as to the content of an MTF admission prospectus or a supplementary prospectus relating to an MTF admission prospectus. For more information on the new designated activity regime, read our client update on the Financial Services and Markets Act 2023 [here](#).

- Regulation 20 has been amended to make clear that the designated activity rules made under the POAT Regulations may include provisions enabling requirements imposed by those rules to be dispensed with or modified by the FCA and enabling publication of a decision to dispense with or modify a rule in the way appearing to the FCA to be best calculated to bring it to the attention of persons likely to be affected.
- Where the FCA proposes to exercise any of the powers set out in regulations 34 to 37, which grant the FCA authority to give directions in order to protect investors or advance the FCA's operational objectives, suspend, restrict or prohibit an offer to the public or admission to trading on a regulated market and to suspend or prohibit trading on a trading facility, regulation 38(9) grants a person to whom a notice is given under regulation 38 the ability to refer the matter to the Upper Tribunal.
- The removal of references in the POAT Regulations to the Financial Services and Markets Act 2000 and EU-derived legislation relating to prospectuses.

Timing

Earlier this year HM Treasury expressed its intention to legislate for the new regime by the end of 2023. The POAT Regulations must be approved by Parliament to become effective. However, once it has been approved by Parliament, the POAT Regulations are not expected to enter into force until after the FCA has made the related designated activity rules through its rulemaking powers. This process, including the FCA's consultation, is likely to occur during H1 2024.

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