

FICC Markets Standards Board

New Issue Process standard for the Fixed Income markets

Transparency Draft

November 2016

I Introduction

1. The FICC Markets Standards Board

The FICC Markets Standards Board (“FMSB”) was established in 2015 in response to the Fair and Effective Markets Review in the UK with a mandate to issue Standards designed to improve conduct and raise standards in the wholesale Fixed Income, Commodity and Currency (“FICC”) markets. The FMSB will work to build up a body of Standards over time, prioritising those areas where its members consider there is a lack of clarity in the standards of behaviour expected of market participants, or a lack of understanding of the issues relevant to a product or transaction type, or evidence of poor conduct.

2. Applicability of FMSB Standards

When the FMSB Standards are published in their final form, they will apply to FMSB member firms. All FMSB member firms will be expected to comply, on a global basis, unless otherwise specified in the relevant Standard, with the core principles of all FMSB Standards but there may be occasions where they are unable to comply with specific details or in certain jurisdictions. In those circumstances FMSB member firms can explain their reasons for not complying.

As at the date of the publication of this [Transparency Draft] Standard, some 38 firms had become members of the FMSB. Full details of those firms are available at <http://www.fmsb.com>. Standards will be shared with Non-Member firms and their associations, who are encouraged to adopt them. Information on Standards will be made available to users of the wholesale FICC markets (e.g. corporates and end investors) so that they may be made aware of their existence and FMSB expectation of market conduct.

3. Relationship with law and regulation

FMSB Standards do not impose legal or regulatory obligations on FMSB members, nor do they take the place of regulation. In the event of any inconsistency, applicable law, rules and regulation will prevail. In developing Standards, relevant regulators will in many cases have commented on their drafting, alongside FMSB member firms and other bodies, such that the Standards once finalized and published are intended to represent an authoritative statement of global good practices and processes.

4. Relationship with other codes

Other codes already exist in relation to certain FICC markets (notably from ICMA, AFME and the Investor Association)¹. There will be some overlap between the work of the FMSB and some other bodies and the FMSB will seek to ensure it adopts a consistent approach in cases of overlap wherever possible, and will seek to avoid issuing a Standard where the subject matter is already covered adequately by existing regulation or a code issued by another body. It may, however, draw attention to members of an existing Code and request adoption, once appropriate steps have been taken to confirm its applicability.

¹ ICMA Primary Market Handbook as updated in July 2016 (“ICMA Primary Market Handbook”), AFME European Primary Dealers Handbook as updated in Q4 2015, and The Investment Association Guidelines for New Issue Transactions in Fixed Income from October 2015.

5. Transparency Draft Standards

The FMSB plans to issue “Transparency Drafts” of its proposed Standards in order to enable all FMSB members and other interested parties to comment on the proposed Standard. The normal period for comment will be indicated on the date of publication of the Transparency Draft.

II Transparency Draft 2016/3 New Issue Process

1. Explanation

This [Transparency Draft] Standard sets out enhancements to existing practices that are designed to improve the new issue process continuum (from the granting of a mandate to the publication of statistics), which improvements should enhance the fairness and effectiveness of the process for all participants, including issuers, investors and lead managers.

2. Scope and applicability

This [Transparency Draft] Standard applies to participants including issuers, investors and underwriting banks in the wholesale Fixed Income markets in Europe (but subject to any applicable local regulatory restrictions). However, it is anticipated that it will be adopted by primary markets participants in other jurisdictions over time.

This [Transparency Draft] Standard builds on the ICMA recommendations in the context of Investment Grade primary markets issuance². This [Transparency Draft] Standard is intended to apply in respect of best efforts syndicated offerings of fixed income bonds in the wholesale markets - including investment grade, high yield, securitisation and emerging market offerings.

² ICMA Primary Market Handbook.

III Principles and Commentary

This [Transparency Draft] Standard sets out a number of *Core Principles* relevant to primary market issuance in the fixed income markets, together with commentary explaining their rationale.

1. Mandate stage

Core Principle 1: Lead banks should describe and make their allocation policies, or a summary of such policies, available to issuers and take note of any of their allocation preferences. This discussion should take place before the book opens, noting that when book building is complete, the issuer's allocation decisions must take precedent. The allocation policy, or a summary of such policy, should also be made publicly available to all market participants.

At the time of the granting of a mandate, it is important for the lead banks and issuer to come together to produce a document for the discrete transaction that describes what objectives the issuer has and how the banks will achieve them. This should include matters such as the allocation preferences of the issuer, and the marketing strategy, including any wall crossing that might be contemplated.

2. Marketing stage

Core Principle 2: Lead banks should have policies on selections of investors for market soundings and investor roadshows. These policies, or a summary of such policies, should be made publicly available to all market participants and should take account of any issuer preferences. Buy-side firms should have a nominated first-instance contact for the purposes of receipt of market soundings.

Lead banks should have in place a policy in respect of which investors are chosen to participate in: (i) market soundings; and (ii) roadshows/meetings between issuer and investor. This document should include the rationale for which and how many investors are chosen for this process, noting that the issuer will play an important part in determining this. This policy may form part of, or be distinct from, a lead bank's allocation policy.

When considering which investors are chosen, lead banks should take the following factors into account;

- The nature and manner of the investor's participation in similar processes.
- Whether the investor has expressed interest in the issuer.
- The level of engagement by the investor in the issuer, or in the issuer's sector, or in past offerings by the issuer.
- Eligibility of investors to participate (e.g. due to deal documentation or selling restrictions).
- The views of the issuer.

Lead banks should ensure that their policies on market soundings and investor roadshows are made available to market participants upon request for the sake of transparency.

Lead banks should also ensure that all investors, whether pre-marketed, met during the investor roadshow or otherwise, are provided with public information that can be found in the offering prospectus (or is otherwise publicly disclosed).

In circumstances where inside information was disclosed as part of the MAR Market Sounding, lead banks should assess when the information that was disclosed during the course of the MAR Market Sounding is, in its opinion, no longer inside information and inform recipients of the MAR Market Sounding of such assessment.

3. Execution stage

Core Principle 3: Lead banks should agree a strategy on book disclosure frequency with the issuer before opening the book of investor interest. Any disclosure should be made public and must be accurate and not misleading at the time it is made.

Limiting the frequency of disclosure with regard to book updates reduces the risk of creating an exaggerated or misleading impression concerning the level of interest in the offering and should therefore be considered best practice. This is subject to the discretion of the issuer provided the overriding principle of no selective disclosure is respected, any book updates are disclosed publicly and are accurate and not misleading at the time they are made.

Lead banks should agree a strategy on book disclosure frequency with the issuer before opening the book of investor interest.

Core Principle 4: In order to allow investors time to collate their demand for a transaction, it should be regarded as best practice not to make any significant changes to indicative issue terms, including pricing and expected range of issue size, nor publicise the order book size, during the last 15 minutes of the bookbuild.

Core Principle 5: Investors should be mindful that all orders: (i) should be a true representation of their demand; (ii) should take into account their investment limitations; and (iii) should be clear, fair and not misleading.

Investors should be mindful that all orders: (i) should be a true representation of their demand; (ii) should take into account their investment limitations (e.g. in relation to assets under management); and (iii) should be clear, fair and not misleading.

Core Principle 6: Investors should each have a nominated contact and email address to be used for the receipt of transaction documentation. Lead banks should ensure each investor receives a final offering circular at the earliest opportunity.

Core Principle 7: Deal announcement terms should: (i) follow standard form layout where possible; (ii) be comprehensive of the key transaction terms; and (iii) be made available at the time of book opening and concurrently with the relevant draft disclosure documentation.

Although investment decisions must be made on the basis of offering documentation, deal announcement terms are useful summaries for investors. Deal announcement terms should include the key transaction terms and, where possible, follow a standard form layout to facilitate investor review. Lead banks should ensure that deal announcement terms are made available at the time of book opening and concurrently with the relevant draft offering documentation.

4. Post-launch stage

Core Principle 8: Lead banks should ensure public and non-selective dissemination of deal statistics, subject to certain limited circumstances as set out below. Distribution statistics to be made publicly available at the earliest opportunity.

Where disclosure of deal statistics is made, it should be made on a public basis and not selectively.

Lead banks should ensure that deal statistics are communicated effectively through the same communication channels used for all other new issue information. One bank may be handed this task at the mandate stage when the various roles are being defined.

There may be circumstances where deal statistics cannot be publicly communicated (e.g. to maintain confidentiality of an investor that has taken a large investment in the transaction, the number of investors is small, or when a lead underwriter is left with a position in the new issue of bonds).

When appropriate to communicate deal statistics, the information should be provided in a standard format and provide an accurate overview of the types and geographical representation of the investors that participated.

5. Monitoring, Controls and Training

Core Principle 9: Market participants should implement appropriate control processes to monitor compliance with this Standard.

Core Principle 10: Market participants should ensure that their personnel have been trained on the substance of this Standard.