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PISCES – New UK Trading Platforms for Shares in Unlisted Companies

UK Government Consults on Innovative Proposals for the First UK Intermittent Trading Platforms for Shares in Unlisted Companies

SUMMARY

On March 6, 2024, the UK Government published a [consultation paper](#) on establishing UK-based intermittent trading platforms for trading shares in unlisted companies. The proposed private intermittent securities and capital exchange system (“PISCES”) will facilitate the secondary trading of shares in any company whose shares are not admitted to trading on a public market in the UK or abroad. Under PISCES, unlisted companies, wherever incorporated, will be able to arrange trading events to enable existing shareholders to sell shares to global investors within the framework of a supervised, bespoke regulatory regime.

The PISCES framework will combine elements from the public markets, such as multilateral trading and tailored investor protections against, for example, market abuse, with elements from the private markets, such as the absence of ongoing disclosure or other regulatory obligations outside of a trading window. Under PISCES, trading windows would be established at defined intervals (such as monthly or quarterly). PISCES is intended to facilitate liquid markets in unlisted company shares and to address the absence of a standardised way for shareholders in unlisted companies to realise gains and to enable unlisted companies to rationalise their shareholder base at an early stage of their growth.

The consultation builds on proposals trailed by the UK’s Chancellor of Exchequer as part of the so-called [Edinburgh Reforms](#) to drive growth and competitiveness in the UK financial services sector and in his 2023 [Mansion House speech](#) on delivering an open, green, and technologically advanced financial services sector that is globally competitive, while retaining the UK’s commitment to high international standards.

In the consultation paper, the UK Government notes the recent growth in private markets. PISCES is intended to allow global investors to take advantage of this shift by accessing companies not yet

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operating on the public markets. It is also anticipated that PISCES will support the pipeline for future IPOs in the UK by improving the interface between private companies and the public markets. In this respect, the proposals complement the UK Government's wider work to make the UK a more attractive place for companies to list and raise capital. This includes reform of the UK's listing regime (on which we reported [here](#)) and proposals for how UK listed companies could raise equity financing more quickly and at less expense (set out in the Secondary Capital Raising Review on which we reported [here](#)). In addition, following the adoption earlier this year of legislation setting out a framework for a new UK prospectus regime, the UK Financial Conduct Authority ("FCA") intends to consult on rules for when prospectuses will be required this summer.

Creating PISCES will require changes to existing UK securities law and regulation. The UK Government is therefore seeking feedback on the design of a "regulatory sandbox" in which a bespoke regulatory framework for PISCES can be tested and developed by market operators with some relaxation of the current rules. The UK Government is also seeking views on whether five years would be an appropriate timeline for this trial. Before the conclusion of the trial period, the UK Government will decide whether to make the PISCES regime permanent.

BACKGROUND

Under the UK's current legal and regulatory framework, there is no route through which securities in unlisted companies can be admitted to a multilateral system for buying and selling on an intermittent basis, where market abuse, transparency and disclosure arrangements apply only during defined trading windows. Further, UK incorporated companies are not permitted under UK company law to offer their securities to the public unless they are public limited companies, effectively prohibiting UK private limited companies from doing so. The proposals therefore will require changes to existing UK company law and current UK financial services law and regulation. The UK Government intends to use new powers to amend existing UK law and regulation in order to develop the PISCES framework.

HM Treasury was granted new powers under the UK Financial Services and Markets Act 2023 to create financial market infrastructure ("FMI") regulatory sandboxes to temporarily modify or disapply UK financial services regulation to trial new or developing FMI technology or practices. The UK Government intends to use these powers to establish and trial PISCES and to give the FCA the tools and potentially also any necessary rule-making powers to support the implementation and operations of the PISCES regulatory sandbox. Prior to the end of the PISCES five-year trial period, the UK Government will assess which permanent legislative amendments it needs to put in place to support a long-term PISCES proposition.

KEY FEATURES OF THE PISCES PROPOSALS

The key features of the PISCES proposals are summarised below.

A. SCOPE OF PISCES: SECURITIES, TRANSACTIONS AND INVESTORS

PISCES will permit the trading of shares in any company (i.e. UK incorporated companies as well as companies incorporated in third countries) whose shares are not already admitted to trading on a public market (including UK and third-country trading venues). Shares traded on a PISCES platform must be freely transferable, and companies seeking to admit their shares to trading would need to review their constitutional documents to ensure they do not impose restrictions on transfers. Multiple share classes issued by a participating company could also be traded. The UK Government does not currently expect to prescribe eligibility requirements for companies using PISCES platforms, such as size criteria. However, PISCES platform operators (see Section C below) would be free to set requirements as conditions to admission. Securities other than shares would not be eligible for trading on PISCES platforms.

It is proposed that PISCES platforms will operate as secondary markets, facilitating the trading of existing shares. They would not facilitate capital raising through the issuance of new shares. Subject to consultation, the UK Government does not propose to permit share buybacks on PISCES platforms. All transactions on PISCES platforms would be carried out during intermittent trading windows (e.g., monthly, quarterly, biannually, etc.) set by the platform operator in consultation with the participating company.

Given the greater risks associated with buying shares in unlisted companies, the UK Government proposes to restrict the categories of investors eligible to trade on PISCES platforms. It expects to prohibit most retail investors from trading (at least whilst PISCES is being trialled), but potentially with exemptions for certain categories of sophisticated or high-net-worth investors based on exemptions under the UK's existing financial promotions regime and for employees buying or selling shares in their employer.

B. BESPOKE DISCLOSURE, MARKET ABUSE AND SETTLEMENT REGIMES

As mentioned above, PISCES platforms would operate intermittent trading windows during which shares can be bought or sold. The UK Government proposes that participating companies will need to disclose key information to prospective investors during a period lasting from shortly before to shortly after each intermittent trading window (the "prescribed period"). Information would not need to be disclosed more generally to the public and there will be no requirement to produce a prospectus. Participating companies would need to make information available only to eligible investors that may trade during the relevant trading window.

Although platform operators may impose additional requirements, the UK Government expects that companies would be required to disclose the following minimum information before any trading window:

- All inside information. The UK Government proposes to import the concept of "inside information" used in relation to the public markets under the UK Market Abuse Regulation ("UK MAR") (potentially with adaptations).
- Information on share ownership, such as a share capitalisation table.

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- Information on transactions by the participant company's senior managers in the participating company's own shares.
- Information on any price parameters used to establish a price for the participating company's shares in the trading window.
- Information on any restrictions set by the participating company on the types of investors that may buy shares during the trading window.

The market abuse regime applicable to PISCES is proposed to be tailored to the intermittent nature of the trading and the specific risks posed by the model. Where appropriate, it will draw on existing definitions and concepts from UK MAR. Significantly, it would apply only from when a participating company discloses information to investors prior to the trading window through to the end of the trading event, although it is proposed that the PISCES MAR regime should prohibit the dissemination of false and misleading information outside of the prescribed period where it would impact on the trading of shares during the trading window. Other than that, companies would not be subject to ongoing or incremental disclosure obligations outside of the prescribed period by virtue of participating on a PISCES platform. Offences from UK MAR relating to the unlawful disclosure of inside information, market manipulation and insider dealing would be maintained and adapted for PISCES. The FCA would be responsible for investigating market abuse and taking enforcement action in relation to trading on PISCES platforms.

The UK Government does not propose to mandate how transactions carried out on a PISCES platform should be settled. Platform operators would decide whether to require participating companies to place their shares in a central securities depository system (e.g., the CREST system operated by Euroclear UK & International) or to settle transactions by other means. If a platform is operated on an intermediated basis (e.g., if, like in CREST, shares are held by nominees for beneficial owners), intermediaries would be subject to the legal and regulatory requirements established by the regulatory sandbox.

C. REQUIREMENTS ON PISCES OPERATORS

The UK Government does not intend to create one, single market for unlisted company shares. Instead, it is envisaged that operators may establish and operate different, competing PISCES platforms. As set out above, platform operators would be granted a degree of discretion over how their platforms are run. This would extend to, amongst other things, the mechanisms for price discovery and settlement, and whether or not to impose eligibility criteria on participating companies.

PISCES operators would, however, be subject to UK regulatory requirements based on those applicable to operators of multilateral trading facilities, such as the UK's Alternative Investment Market, AQSE Growth Market and Turquoise. These would include transparency rules and procedures for fair and orderly trading, processes to identify and address breaches against operator rules and controls and procedures to identify and respond to systems disruptions. Responsibilities specific to operating a PISCES platform would include preventing ineligible investors from trading and maintaining a private perimeter for the disclosure of information ahead of trading windows.

Operators will need an FCA permission to operate a PISCES platform, including as part of the regulatory sandbox trial period. Applications will be open to legal entities established within the UK that have a Part 4A permission under the UK Financial Services and Markets Act 2000 to arrange deals in investments or to operate a multilateral or organised trading facility. Applications will also be open to operators of Recognised Investment Exchanges, such as the London Stock Exchange or Acquis Stock Exchange. The UK Government expects that all existing trading venue operators in the UK would therefore be eligible to operate a PISCES platform.

NEXT STEPS

Feedback on the consultation is due by April 17, 2024, and the UK Government intends for the PISCES regulatory sandbox trial to go live at the end of 2024. Later this year, it will lay before the UK Parliament the legislation setting out the legal framework for the regulatory sandbox trial. The FCA intends to consult on the processes for taking part in the regulatory sandbox trial and on the rules applicable to the regulatory sandbox trial's participants before the end of 2024.

COMMENT

The UK Government's proposals represent a bold and innovative step towards enhancing liquidity in unlisted company shares. The development of PISCES through the regulatory sandbox trial will be watched with interest by unlisted companies seeking liquidity events for their shareholders but without a public offering and all the incremental regulatory requirements that entails, as well as by global investors looking for a wider range of investment opportunities.

The London Stock Exchange, which helped to develop the proposals, intends to launch a PISCES platform. Commenting on the proposals, the CEO of the London Stock Exchange said: "*The introduction of a venue that provides private companies with choice in how and when they access liquidity, and gives shareholders opportunities to enter and exit investments, could be transformational for UK capital markets. We look forward to working with HMT [His Majesty's Treasury] and other stakeholders in the coming months to bring this innovative solution to market.*"

Although other secondary markets for shares, such as the Nasdaq Private Market, are well established – and some crowdfunding platforms facilitate bilateral share sales – the proposals are nevertheless ambitious. In particular, the jurisdictional reach of PISCES is broad; on the basis of the UK Government's proposals, participants will not need to have any nexus to the UK. Companies incorporated anywhere in the world could, in theory, arrange trading events on PISCES in which their shareholders could sell shares to global investors. This may lead to greater liquidity on the PISCES platforms, and PISCES may prove attractive to overseas unlisted companies with no comparable market in their jurisdiction of incorporation.

The provision of FCA oversight and enforcement over the PISCES regulatory sandbox trial is also welcome, facilitating market confidence in the PISCES framework. Moreover, by road-testing a proportional regulatory architecture, the UK Government is taking a long-term view of the potential for

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innovation. In all, the proposals are an interesting new development that may go some way to establishing the UK as a “go-to” trading venue for unlisted companies.

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