

Jonathan Rees
Primary Markets Policy
Financial Services Authority
25 The North Colonnade
Canary Wharf
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London, 23rd January 2009

FSA Consultation Paper 09/04 - Rights issue subscription periods

Dear Mr. Rees,

The CFA Institute Centre for Financial Market Integrity (“CFA Institute Centre”) welcomes the opportunity to comment on the FSA’s Consultation Paper 09/04 - Rights issue subscription period (the “Consultation”), which addresses an amendment to the FSA’s Listing Rules sourcebook (“LR”) to permit a listed company to reduce its rights issue subscription period.

The CFA Institute Centre¹ is part of CFA Institute². With headquarters in Charlottesville, VA, and regional offices in New York, Hong Kong, and London, CFA Institute is a global, not-for-profit professional association with over 100,000 investment analysts, portfolio managers, investment advisors, and other investment professionals in 134 countries, of whom nearly 87,000 are holders of the Chartered Financial Analyst® (CFA®) designation. The CFA Institute membership also includes 136 member societies in 57 countries and territories.

The CFA Institute Centre promotes fair and open global capital markets and advocates for investors’ protection. Accordingly, we place great importance to the review of the rights issue process, which forms the context of the proposal to amend the LR. Such a reform would allow for greater protection of shareholders’ interests and a reduction of risks to underwriters.

During the second quarter of 2008, three well-known British banks announced plans to raise additional equity capital through the rights issue process. Despite subscription prices that more than compensated for the dilution created by the respective rights offers, the market prices for these bank stocks sank to and below the rights offer prices. This price

¹ The CFA Institute Centre develops, promulgates, and maintains the highest ethical standards for the investment community, including the CFA Institute Code of Ethics and Standards of Professional Conduct, Global Investment Performance Standards (“GIPS®”), and the Asset Manager Code of Professional Conduct (“AMC”). It represents the views of investment professionals and investors before standard setters, regulatory authorities, and legislative bodies worldwide on issues that affect the practice of financial analysis and investment management, education and licensing requirements for investment professionals, and the transparency and integrity of global financial markets.

² CFA Institute is best known for developing and administering the Chartered Financial Analyst curriculum and examinations and issuing the CFA Charter.

behaviour provoked considerable media attention and calls for a review of the rights issue process. Security prices reflect the expectations of the participants. Hence, the precipitous fall in financial stocks from the respective offering announcements to date reflects the behaviour of investors negatively reappraising the depth of the credit crisis and re-pricing the shares accordingly.

We do not identify anything fundamentally wrong in the current process, as it proved to work even in times of market turbulence. The 'subject' rights issues were completed albeit with some stress to the underwriters and as far as we are aware, no evidence has been uncovered of market abuse.

However, we agree with the rationale behind this Consultation, as we are concerned about the length of the rights issue process. We believe this could be shortened considerably without damaging shareholder interests and at the same time, reduce the risk to underwriters. In a competitive market³, this should reduce the cost of capital, as risk has a value.

The FSA, following the Rights Issue Review Group's advice⁴, decided to shorten the rights issue subscription period, bringing the acceptance period from the current 21 days to either 14 calendar days or 10 business days. **We give our support to a reduced ten business days period.** We find this solution to be fairer to investors, who would all benefit from at least a two weeks time to respond notwithstanding the period of the year. This would not happen if the 14 working days policy option was chosen. We think in particular of a rights issue process taking place around a holiday season, during which investors would have considerably less days compared to a normal period.

We appreciate the decision to include in the consultation document a final note on the online availability of prospectuses. The mandatory physical distribution of prospectuses to investors is another step of the rights issue process that would benefit from some modernisation. On this matter, we would ideally be in favour of the physical distribution of just a "Key Investor Information" document⁵, slimmer and more user-friendly than a complete prospectus. Nevertheless, we appreciate the FSA's proposal to make online prospectuses immediately available as a first step towards further simplification. We hope that further steps will be made during the review of the Prospectus regime at the EU level.

Finally, despite it being out of the scope of the current consultation, we would like to bring to the attention of the FSA another issue that is crucial to the integrity of the rights issue process and of UK's financial market.

Investment banks play an important role on behalf of the issuers in the construction of an underwriting group and the preparation of documents. The success of their work depends

³ By a competitive market, we refer to a structure where the fees of investment banking services are actively negotiated between issuers and investment banks.

⁴ Established by the Chancellor to "review the equity capital raising process and recommend ways in which it could be made more efficient and more orderly".

⁵ This document would contain the terms of the offer, a trading update and financial position, management discussion and analysis (MD&A) of the current trading environment, the reasons for the issue, the underwriting group members and their commitment and a reference to the full prospectus via a web link.

on confidentiality. We see the maintenance, promotion and enforcement of confidentiality as an absolute priority and suggest monitoring any institution brought across 'the Chinese wall'. The aim would be to confirm that any transactions relating to the issuer (this includes derivatives, and related securities such as convertible bonds and CfDs) are either executed in response to unsolicited customer demand – passive market making in the case of an investment bank – or restricted to unsolicited non-discretionary orders in the case of fund managers.

Yours faithfully,



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