



## EUROPEAN CAPITAL MARKETS UPDATE

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### All EU Member States



#### New EU Prospectus Regulation 2017/1129 Entered into Force

On 20 July 2017, the new EU Prospectus Regulation (Regulation (EU) 2017/1129) of the European Parliament and of the Council of 14 June 2017 entered into force. The Regulation replaces the EU Prospectus Directive (Directive 2003/71/EC as amended) entirely and lays down requirements for the drawing up, approval and distribution of the prospectus to be published when securities are offered to the public or admitted to trading on a regulated market situated or operating within an EU Member State. As an EU Regulation, the new rules do not have to be implemented but are directly applicable in the EU Member States.

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#### ESMA Issues Technical Advice on Format and Content of Prospectuses: Focus on Proposed Deletion of Requirement to Include Accountants' or Auditors' Report in Prospectus Presenting Profit Forecast or Estimate

As noted above, the new Prospectus Regulation entered into force on 20 July 2017. Following a request for technical advice from the European Commission, the European Securities and Markets Authority ("ESMA") has published three draft technical advice papers, including one relating to the format and content of the prospectus.

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#### ESMA Update Q&A to Clarify Definition of "Closely Related Person" for Purposes of Article 3(1)(26) of MAR

On 6 July 2017, ESMA updated its Q&A relating to the Market Abuse Regulation ("MAR") which included a clarification on the definition of a "closely associated person" for the purposes of Article 3(1)(26) of MAR. Under Article 3(1)(26)(d), the definition of a "closely associated

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person" includes a legal person, trust or partnership, the managerial responsibilities of which are discharged by a person discharging managerial responsibilities.

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## Brussels



### New Category of Debt Securities: Senior Non-Preferred Notes

On 20 July 2017, Belgium adopted legislation establishing senior non-preferred notes, a new category of debt securities available to banking institutions. The law provides for a new Article 389/1 into the Law of 25 April 2014 on the status and supervision of credit institutions. In particular, Article 389/1 aims to increase the effectiveness of the bail-in tool and introduces a new category of claims in the hierarchy of creditors in the case of a liquidation procedure (*procédure de liquidation / liquidatieprocedure*) of a banking institution.

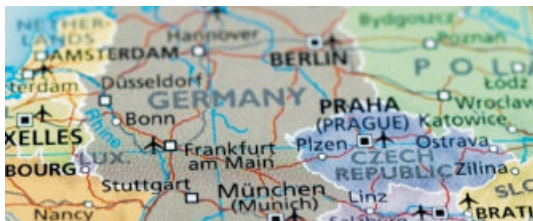
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### Further Implementation of the Market Abuse Regulation

On 31 July 2017, a new law was adopted to further implement and ensure the effectiveness of Regulation 596/2014 on market abuse. This new law amends the law of 2 August 2002 on the supervision of the financial sector and on financial services.

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## Frankfurt



### New German Money Laundering Act Establishes Additional Transparency Requirements for Certain Listed Companies

On 25 June 2017, the new German Money Laundering Act came into force, which primarily implements the 4th European Anti-Money-Laundering Directive (EU 2015/849) into German law. Among others, the Act establishes a new "Transparency Register", where the (ultimate) beneficial owners of corporate and other legal entities incorporated within Germany will be registered.

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## London



### The Pre-Emption Group Publishes Monitoring Report

[Marchés Financiers Takes Position on Information to be Included in Bond Prospectuses](#)

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The Pre-Emption Group has released a monitoring report which looks at the implementation of the Statement of Principles and the template resolutions regarding disapplication published by the Group in May 2016. The Statement of Principles provides a framework for early and effective dialogue, and the monitoring report suggests that the principles generally have been followed. However, the report also has highlighted examples of poor consultation and disclosure.

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### **ICSA and The Investment Association Publish Guidance on Board Engagement with Stakeholders**

In September 2017, ICSA: The Governance Institute ("ICSA") and The Investment Association published new guidance to help company boards ensure that they consider and understand the interests of their key stakeholders when taking strategic decisions. In the guidance, it is acknowledged that while there are certain core principles that should guide the way boards approach the issue of stakeholder engagement, each company's approach will also need to be informed by its purpose, culture and values.

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### **AIM Companies and the Legal Identifier Requirement**

The London Stock Exchange published AIM Notice 47 on 13 October 2017 in respect of the requirement that all AIM companies with securities admitted to trading on AIM obtain a Legal Entity Identifier code. It is noted that this requirement ensures compliance with the obligations under MiFID II and the Market Abuse Regulation, which require market operators, such as the London Stock Exchange, to collate LEI codes for each issuer with securities admitted to trading.

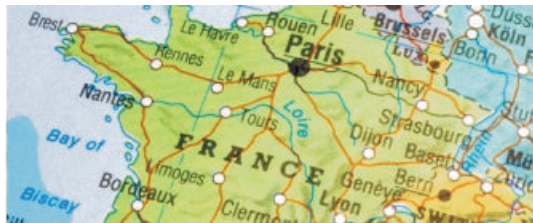
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### **FCA Publishes Policy Statement Setting Out Changes to the Listing Rules**

The United Kingdom's Financial Conduct Authority published a policy statement on 26 October 2017 setting out certain amendments to the Listing Rules and related technical notes. The FCA had put forward a number of proposals in its consultation paper, "Review of the Effectiveness of Primary Markets: Enhancements to the Listing Regime", published in February 2017, and the Policy Statement reflects the final changes to the LRs and technical notes which will take effect on 1 January 2018.

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## **Paris**



### **Negative Interest Rates: *Autorité des Marchés Financiers* Takes Position on Information to be Included in Bond Prospectuses**

During the last decade, negative interest rates have raised concerns in the European debt capital markets landscape. Prospectuses often allow the issuance of debt securities for which the interest rate is linked to indexes that are or can become negative (e.g. LIBOR, EURIBOR).

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