SELLING RESTRICTIONS FOR EQUITY (EEA AND UK)

1. INTRODUCTION

Purpose

The purpose of this equity selling restriction wording is to assist with market efficiency. It has been prepared by a group of law firms who are associate members of AFME and adopted by AFME members active in primary equity capital markets. The form is consistent with the International Capital Markets Association's (ICMA) form of selling restriction for debt (June 2015 version), with modifications made to reflect the different selling dynamics of the two products.

The context

On an offer or sale of shares by an issuer which has or is seeking a listing on the main market of the London Stock Exchange, the market practice is for each member of the underwriting syndicate to give an undertaking to comply with certain selling restrictions in the underwriting agreement. AFME's suggested text of the selling restriction undertakings in an equity underwriting agreement is set out below. These restrictions make it clear that the prospectus is valid only for offers which are:

(i) exempt under the EU Prospectus Directive, as amended by Directive 2010/73/EU (PD); or

(ii) non-exempt offers in particular jurisdictions, which are contemplated in the underwriting agreement.

The text is intended for use in connection with an equity offering involving the publication of a prospectus in the UK and other EEA member states which have implemented the PD. The equity format is also appropriate for use on GDR issues. In relation to offers in particular EEA jurisdictions, it will normally also be appropriate or necessary to include specific language in relation to each relevant jurisdiction, in addition to the EEA-wide language (e.g. addressing the AIFMD). Suggested UK selling restriction language is therefore also set out below.

In summary, the following concepts underpin the EEA selling restrictions in the underwriting agreement.

The first paragraph of the restriction operates on an EEA-wide basis and requires the managers to avoid offers which may fix the issuer or possibly one or more managers with a prospectus or prospectus supplement obligation in a relevant jurisdiction, save as contemplated in the prospectus or alternatively the underwriting agreement. Referring to the underwriting agreement would allow the Issuer and the managers the maximum flexibility to include additional countries during the offer period, rather than going public with a definitive list in the prospectus which may subsequently be found to need amending. However, consideration would need to be given as to whether the existing prospectus may be used in the additional countries, without adding additional selling restrictions or rubrics (in a wrap or supplement or updating the description of the offer in the prospectus). The subsequent paragraphs permit offers which are exempt from the prospectus publication requirement including, in particular, offers made to certain types of qualified investors and offers addressed to less than a specified number of persons per EEA Member State other than qualified investors.

2. EQUITY SELLING RESTRICTION WORDING

The standard wording comprises an EEA equity selling restriction and a selling restriction addressing additional United Kingdom securities laws, as follows.

Finance for Europe

EEA selling restriction

In relation to each Member State of the European Economic Area[1] [which has implemented the Prospectus Directive[2]] (each a "Relevant Member State"), each [Manager] severally and not jointly or jointly and severally, represents, warrants and agrees that it has not made and will not make an offer of shares which are the subject of the [offering/placement] contemplated by [the Prospectus][[the]/[this] Underwriting Agreement] (the "Shares") to the public in that Relevant Member State [other than the offers contemplated in the Prospectus in [*insert name(s) of Member State(s) where prospectus will be approved or passported for the purposes of a non-exempt offer*] once the Prospectus has been approved by the competent authority in [*name of Member State where prospectus will be approved*] and published [and notified to the relevant competent authorit(y)/(ies)] in accordance with the Prospectus Directive, provided that the Issuer has consented in writing to the use of the Prospectus for any such offers[3],][4] except that it may make an offer to the public in that Relevant Member State of any Shares at any time under the following exemptions under the Prospectus Directive if they have been implemented in that Relevant Member State:

(a) to any Iegal entity which is a qualified investor as defined under the Prospectus Directive;

(b) to fewer than 150 natural or legal persons (other than qualified investors as defined under the Prospectus Directive), subject to obtaining the prior consent of [the Global Co-ordinator] for any such offer; or

(c) in any other circumstances falling within Article 3(2) of the Prospectus Directive,

provided that no such offer of Shares shall require the Issuer or any Manager to publish a prospectus pursuant to Article 3 of the Prospectus Directive or supplement a prospectus pursuant to Article 16 of the Prospectus Directive[5].

For the purposes of this provision, the expression an "offer to the public" in relation to any Shares in any Relevant Member State means the communication in any form and by any means of sufficient information on the terms of the offer and any Shares to be offered so as to enable an investor to decide to purchase or subscribe for any Shares, as the same may be varied in that Member State and the expression "Prospectus Directive" means Directive 2003/71/EC (as amended, including by Directive 2010/73/EU), and includes any relevant implementing measure in the Relevant Member State.

Selling restrictions addressing additional United Kingdom securities laws

Each Manager severally represents, warrants and agrees that:

(a) it has only communicated or caused to be communicated and will only communicate or cause to be communicated an invitation or inducement to engage in investment activity (within the meaning of Section 21 of FSMA) in connection with the issue or sale of the Shares in circumstances in which Section 21(1) of FSMA [does not] [would not, if the issuer were not an authorised person,] apply to the issuer, and

(b) it has complied and will comply with all applicable provisions of the FSMA with respect to anything done by it in relation to the Shares in, from or otherwise involving the United Kingdom.

April 2016

[1] The EEA is the European Union plus Iceland, Norway and Liechtenstein. Note that there may be new entrants to the EU or EEA and therefore the concept of "Relevant Member State' still has purpose.

[2] As at the date of publication of these selling restrictions, all EEA Member States have implemented the Prospectus Directive into national law. In the case of further enlargement of the European Union and EEA, these selling restrictions should be used with caution in connection with new Member States, which may not have implemented the Prospectus Directive into national law in the period immediately before accession.

[3] This is standard language that may be used in a context where the issuer wishes to consent, in accordance with Article 3(2) of the Prospectus Directive, in the context of a non-exempt offer, to the use of the prospectus in a subsequent resale of securities or final placement of securities through financial intermediaries.

[4] The text in square brackets (from "other than the offers..." to "…for any such offers") should not be included in a prospectus prepared only for an application for admission to trading on a regulated market or where there is no such application and only exempt offers are to be made.

[5] The reference to supplementing a prospectus pursuant to Article 16 may be deleted in circumstances where no prospectus is being or has been published (including for admission to trading purposes) that could be supplemented. For instance it may not be relevant in a transaction where all offers are to be made on an exempt basis and the securities are to be listed on an exchange-regulated market such as the Alternative investment Market.