

## **AFME SELLING RESTRICTIONS FOR EQUITY (EEA AND UK)**

The wording below sets out the selling restrictions for equity transactions for use following the UK's withdrawal from the European Union until the end of the transitional period.

These selling restrictions speak as of 1 February 2020, at which point the UK has ceased to be an EU Member State. Even so, after that date, AFME will continue to monitor the progress of any free trade agreement or any other relevant developments covering financial services and the policy of the UK Government and review whether any changes to these selling restrictions may be required.

Accordingly, AFME may need to update these selling restrictions at the point at which the final nature of the UK's withdrawal from the EU is certain. For example, at the time of drafting, it is unclear what form any Brexit trade deal might yet take. It is possible that the concept of passporting (with the UK treated as if it were a member of the EEA even after the end of the transitional period) may continue even after such trade deal.

The wording reflects the application of Regulation EU 2017/1129 of the European Parliament and of the Council on the prospectus to be published when securities are offered to the public or admitted to trading on a regulated market and repealing Directive 2003/71/EC (the Prospectus Regulation). As a Regulation, it is binding in its entirety and directly applicable in all EEA Member States and, during the transitional period under the terms of the UK-EU Withdrawal Agreement, the United Kingdom. Given this, no implementing measures were required at a national level. Therefore, there should be no need for additional or alternative Prospectus Regulation selling restrictions in relation to public offers in EEA jurisdictions or the United Kingdom, although there may be a need for additional selling restrictions to address other local requirements.

## **EQUITY SELLING RESTRICTION WORDING TO REFLECT A DEAL AND TRANSITIONAL PERIOD**

The wording comprises an EEA and United Kingdom public offer equity selling restriction (with separate forms for insertion into transaction contracts e.g. underwriting agreements and prospectuses, respectively, and a selling restriction addressing additional United Kingdom securities laws (for insertion into transaction contracts), as follows.

### **EEA and United Kingdom public offer selling restriction (for transaction contracts)**

In relation to each Member State of the European Economic Area and the United Kingdom (each a "Relevant 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 State [other than the offers contemplated in the Prospectus in *[insert name(s) of Relevant 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 Relevant State where prospectus will be approved]* and published [and notified to the relevant competent authorit(y)/(ies)] in accordance with the Prospectus Regulation, provided that the Issuer has consented in writing to the use of the Prospectus for any such offers,] except that it may make an offer to the public in that Relevant State of any Shares at any time under the following exemptions under the Prospectus Regulation:

- (a) to any legal entity which is a qualified investor as defined under the Prospectus Regulation;

Effective from 1 February 2020

- (b) to fewer than 150 natural or legal persons (other than qualified investors as defined under the Prospectus Regulation), subject to obtaining the prior consent of [the Global Co-ordinator] for any such offer; or
- (c) in any other circumstances falling within Article 1(4) of the Prospectus Regulation,

provided that no such offer of the Shares shall require the Issuer or any Manager to publish a prospectus pursuant to Article 3 of the Prospectus Regulation or supplement a prospectus pursuant to Article 23 of the Prospectus Regulation.

For the purposes of this provision, the expression an “offer to the public” in relation to the Shares in any Relevant 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, and the expression “Prospectus Regulation” means Regulation (EU) 2017/1129.

#### **EEA and United Kingdom public offer selling restriction (for prospectuses)**

In relation to each Member State of the European Economic Area and the United Kingdom (each a “Relevant State”), no shares have been offered or will be offered pursuant to the [Global Offering] to the public in that Relevant State prior to the publication of a prospectus in relation to the Shares which has been approved by the competent authority in that Relevant State or, where appropriate, approved in another Relevant State and notified to the competent authority in that Relevant State, all in accordance with the Prospectus Regulation, except that it may make an offer to the public in that Relevant State of any Shares at any time under the following exemptions under the Prospectus Regulation:

- (a) to any legal entity which is a qualified investor as defined under the Prospectus Regulation;
- (b) to fewer than 150 natural or legal persons (other than qualified investors as defined under the Prospectus Regulation), subject to obtaining the prior consent of [the Global Co-ordinator] for any such offer; or
- (c) in any other circumstances falling within Article 1(4) of the Prospectus Regulation,

provided that no such offer of the Shares shall require the Issuer or any Manager to publish a prospectus pursuant to Article 3 of the Prospectus Regulation or supplement a prospectus pursuant to Article 23 of the Prospectus Regulation.

For the purposes of this provision, the expression an “offer to the public” in relation to the Shares in any Relevant 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, and the expression “Prospectus Regulation” means Regulation (EU) 2017/1129.

#### **Selling restrictions addressing additional United Kingdom securities laws (for transaction contracts)**

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

Effective from 1 February 2020

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.

**Effective from 1 February 2020**