

AIM JOURNAL

THE ONLINE MONTHLY FOR THE ALTERNATIVE INVESTMENT MARKET

Challenges of mini-bond issuance

Recent developments in the mini-bond issuance arena have caused significant concerns which many consider will be the start of a major rethink on security promotion going forward. The FCA has imposed temporary product intervention powers to address perceived risks primarily from the promotion of such products to naive investors via social media & the internet. The implications of this move stand to be far more wide reaching than simply the mini-bonds market & could yet impact a whole host of unlisted securities. But addressing the challenge posed here needn't be an expensive or unnecessarily cumbersome process. Avenir Registrars have extensive experience of providing a commercial & scaled service & currently handle a significant number of CREST enabled bond registers.

Section 21 of the Financial Services Market Act 2000 stipulates a sign off before certain investments can be safely marketed to a wider audience. Such endorsement signals to investors that the representations made in the marketing materials have been vetted by an FCA authorised entity or individual. All well & good you might say and so everyone thought up until the mini-bond London Capital & Finance debacle that unravelled last year. The problem was that illiquid mini-bonds had seemingly been indicated as appropriate for ISA & SIPP wrappers. This led to the company's collapse and resulted in losses for a potential 11,600 investors that are estimated to be of the order of £236mln.

Section 21 sign offs were not needed for investments sold to self-certified sophisticated investors or those considered high net worth. This remains the case, although the FCA has emphasised the need to highlight the attendant risks of loss & the costs & fees being incurred. However the FCA's interim instruction now prevents the promotion of mini-bonds to the wider retail investor community.

Of course there is a primary obligation placed on directors of any company to act in a responsible fashion & not to mislead. Within this context there could be a claim of malpractice if issuers' directors allow inappropriate or misdescribed issuances to occur. To underscore this, the FCA are placing increased requirements of prudence when authorised parties sign off, to fully assess the viability of new bond issues.



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Challenges of mini-bond issuance (continued)

Latterly bond issuances have been seen as a cost advantageous route to raising capital as against issuing equity. So how can bond, debenture or preference share issuers counter this move? Firstly they need to engage with competent advisers who can give them clear guidance on correctly structuring their intended issues & specifically to whom they can be legally marketed. Just as important is looking to provide liquidity. The inability of an investor to trade out of a position has been at the heart of much of this latest move.

One way to do this is to seek a formal trading platform for holders. This is often seen as a stumbling block to smaller issuers but with alternative venues such as Aquis Stock Exchange (formerly NEX) & JP Jenkins in London or perhaps the Vienna Exchange, there are commercially viable venues that can provide this enhancement. Most importantly these venues clear through CREST, something that necessitates passing its own qualification terms. Using a registrar with significant CREST enabled bond experience – such as Avenir - is also critically important.

Whilst the FCA has said the move is temporary for 2020, it intends to consult during the first half of the year & it seems likely that permanent controls could well follow. Any such new conditions of issue could well be applied more broadly to other instruments that are also considered to pose a perceived risk to retail investors.

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