

Chapter 3

Approval and publication of prospectus



3.3 Advertisements

Advertisements

3.3.1

UK

Article 22(1) to (5) of the *Prospectus Regulation* provides for requirements applicable to *advertisements*:

Article 22

Advertisements

- 1.Any advertisement relating either to an offer of securities to the public or to an admission to trading on a regulated market shall comply with the principles contained in paragraphs 2 to 5. Paragraphs 2 to 4 and point (b) of paragraph 5 shall apply only to cases where the issuer, the offeror or the person asking for admission to trading on a regulated market is subject to the obligation to draw up a prospectus.
- 2.Advertisements shall state that a prospectus has been or will be published and indicate where investors are or will be able to obtain it.
- 3.Advertisements shall be clearly recognisable as such. The information contained in an advertisement shall not be inaccurate or misleading and shall be consistent with the information contained in the prospectus, where already published, or with the information required to be in the prospectus, where the prospectus is yet to be published.
- 4.All information disclosed in an oral or written form concerning the offer of securities to the public or the admission to trading on a regulated market, even where not for advertising purposes, shall be consistent with the information contained in the prospectus.
- 5.In the event that material information is disclosed by an issuer or an offeror and addressed to one or more selected investors in oral or written form, such information shall, as applicable, either:
 - (a)be disclosed to all other investors to whom the offer is addressed, in the event that a prospectus is not required to be published in accordance with Article 1(4) or (5); or
 - (b)be included in the prospectus or in a supplement to the prospectus in accordance with Article 23(1), in the event that a prospectus is required to be published.

3.3.2

UK

Chapter IV of the *Prospectus RTS Regulation* provides that:

Article 13

Identification of the prospectus

Where the issuer, the offeror or the person asking for admission to trading on a regulated market is subject to the obligation to draw up a prospectus, an advertisement shall clearly identify that prospectus by:

- (a)clearly identifying the website where the prospectus is published, or will be published, where the advertisement is disseminated in written form and by means other than electronic means;
- (b)including a hyperlink to the prospectus and to the relevant final terms of a base prospectus where the advertisement is disseminated in written form by electronic means, or by including a hyperlink to the page of the website where the prospectus will be published if the prospectus has not yet been published;
- (c)including accurate information on where the prospectus may be obtained, and accurate information on the offer of securities or the admission to trading on a regulated market to which it relates, where the advertisement is disseminated in a form or by means not falling within the scope of points (a) or (b).

Article 14

Required content

1.Advertisements disseminated to potential retail investors shall include the following elements:

- (a)the word ‘advertisement’, in a prominent manner. Where an advertisement is disseminated in an oral form, the purpose of the communication shall be clearly identified at the beginning of the message;
- (b)a statement that the approval of the prospectus should not be understood as an endorsement of the securities offered or admitted to trading on a regulated market where the advertisement contains a reference to a prospectus approved by the FCA;
- (c)a recommendation that potential investors read the prospectus before making an investment decision in order to fully understand the potential risks and rewards associated with the decision to invest in the securities where the advertisement contains a reference to a prospectus approved by the FCA;
- (d)the comprehension alert required pursuant to point (b) of Article 8(3) of Regulation (EU) No 1286/2014 of the European Parliament and of the Council¹² where:
 - (i)the advertisement relates to complex securities other than the financial instruments referred to in [COBS 10A.4.1R\(2\)\(a\), \(b\) and \(d\)\]](#) and;
 - (ii)the comprehension alert is, or will be, included in the summary of the prospectus.

2.Advertisements in written form, which are disseminated to potential retail investors, shall be sufficiently different in format and

length from the prospectus that no confusion with the prospectus is possible.

Article 15

Dissemination of advertisements

1. Advertisements disseminated to potential investors shall be amended where:

- (a) a supplement to the prospectus is subsequently published in accordance with Article 23 of [the *Prospectus Regulation*];
- (b) the significant new factor, material mistake or material inaccuracy mentioned in the supplement renders the previously disseminated advertisement materially inaccurate or misleading.

The first subparagraph shall not apply after the final closing of the offer period to the public or after the time when trading on a regulated market begins, whichever occurs later.

2. Advertisements amended as referred to in paragraph 1 shall be disseminated to potential investors without undue delay following the publication of the supplement to the prospectus and shall contain all of the following:

- (a) a clear reference to the inaccurate or misleading version of the advertisement;
- (b) an explanation that the advertisement has been amended as it contained materially inaccurate or misleading information;
- (c) a clear description of the differences between the two versions of the advertisement.

3. With the exception of orally disseminated advertisements, advertisements amended pursuant to paragraph 1 shall be disseminated through at least the same means as the previous advertisement.

Article 16

Information concerning offers of securities

1. Information disclosed in oral or written form concerning an offer of securities to the public or an admission to trading on a regulated market, whether as an advertisement or for other purposes, shall not:

- (a) contradict the information in the prospectus;
- (b) refer to information which contradicts the information in the prospectus;
- (c) present the information in the prospectus in a materially unbalanced way, including by way of presentation of negative aspects of such information with less prominence than the positive aspects, omission or selective presentation of certain information;
- (d) contain alternative performance measures unless they are contained in the prospectus.

2.For the purposes of the paragraph 1, information in the prospectus shall consist of either information included in the prospectus, where already published, or information to be included in the prospectus, where the prospectus is to be published at a later date.

3.For the purposes of point (d) of the paragraph 1, alternative performance measures shall consist of financial measures of historical or future financial performance, financial position or cash flows, other than financial measures defined in the applicable financial reporting framework.