



## **BULLETIN – Wednesday 17th May 2006**

### **Listing of Euro Medium Term Notes**

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A serious situation has arisen in relation to the above post implementation of the Prospectus Directive in July 2005 due in part to the unique process which has been adopted in relation to this process.

In these terms, the Issuing & Paying Agency Agreement normally provides an obligation for the Issuing and Paying Agent (“IPA”) upon receipt of any Final Terms (formerly the Pricing Supplement) which indicates that the particular tranche is to be so listed, to submit them electronically to both the relevant competent authority for admission to listing.

The IPA should not have any responsibility as to the compliance of the Base Prospectus with the Prospectus Directive under the appropriate regime as the IPA should not be construed as the Listing Agent which entity normally has this obligation in relation to other recognised exchanges.

It appears that there have been several instances where Final Terms have been submitted for Listing in circumstances where the Base Prospectus is not fully updated and is therefore not in compliance with the requirements of the Prospectus Directive. Listing such securities without an up to date prospectus could constitute a Criminal Offence.

Where the Base Prospectus requires updating before a particular trade can be listed, the Supplemental prospectus has to be submitted to the relevant competent authority by the Authorised Listing Representative and NOT the IPA.

Whilst it is envisioned that a market based solution will be sought to overcome this problem, it is imperative that IPAs introduce controls immediately in order to prevent any regulatory breach occurring in the meantime.

On this basis it is important that each IPA involved introduces procedures to ensure that it has express instructions from the Issuer/Dealer Arranger to submit Final Terms for an issue to the relevant competent authority and that no update to the prospectus is required before a listing can be applied for, in order to protect not only its own interests but those of each Issuer involved.

It is also important to emphasise that in no circumstances should an IPA submit any form of Supplemental prospectus to the relevant competent authority.

Paying Agents operating in the UK and acting for UK Corporate Issuers should however ensure that, in all circumstances where Listing is definitively intended, the Listing has actually become effective in order to comply with the Quoted Eurobond Exemption to ensure there is no liability to UK Withholding tax at source. Should Listing not be applied for then it will be necessary to ensure that any other exemptions that may apply are in place in each case to avoid any potential tax liability for the Paying Agent as a UK Collecting Agent.