The City of London Law Society

The Law Society

FCA Consultation (CP15/38) related to provisions to delay disclosure of inside information within the FCA's disclosure and transparency rules

Joint response by the Law Society of England and Wales and the City of London Law Society

February 2016

Preface

1 The comments set out in this paper have been prepared jointly by the Listing Rules Joint Working Party of the Company Law Committees of the Law Society of England and Wales ("the Society") and the City of London Law Society ("CLLS").

2 The Society is the professional body for solicitors in England and Wales, representing over 160,000 registered legal practitioners. It represents the profession to Parliament, Government and regulatory bodies in both the domestic and European arena and has a public interest in the reform of the law.

3 The CLLS represents approximately 15,000 City lawyers through individual and corporate membership, including some of the largest international law firms in the world. These law firms advise a variety of clients from multinational companies and financial institutions to Government departments, often in relation to complex, multijurisdictional legal issues. The CLLS responds to a variety of consultations on issues of importance to its members through its 19 specialist committees.

4 The Listing Rules Joint Working Party is made up of senior and specialist corporate lawyers from both the Law Society and the CLLS who have a particular focus on the UK listing regime.

5 **Do you agree that making the proposed change to Disclosure * Transparency Rule (DTR) 2.5.5G, without issuing further guidance relating to 'legitimate interest' supports a properly functioning disclosure regime?**

6 No. While we support the proposed amendment to DTR 2.5.5G, we believe it is essential for further guidance to be issued. This is particularly so for the UK, given the recent decision in the Hannam case and the comments by the Tribunal in that case which appear to cast doubt on the circumstances in which issuers are treated as having delayed disclosure and on the circumstances in which there is an entitlement to delay. The new requirements in the Market Abuse Regulation with which issuers will have to comply when they delay disclosure mean that it is even more important that there is clarity on this point. We appreciate that the European Securities and Markets Authority (ESMA) is currently consulting on guidelines in relation to the question of legitimate interests and we are proposing to provide a response to their consultation paper in which we will amongst other things seek clarity on these points, given their importance for the proper functioning of the UK market. Clearly, without guidance, issuers subject to the UK regime will not know to what extent the removal of the proposed words in DTR 2.5.5G gives them any greater latitude than they have currently.

7 We should be happy to discuss the above comments with you and we shall provide you in due course with a copy of our response to the ESMA consultation.

Officer's Name : Renee Turner
Officer's Title : Policy Advisor
Officer's Email address : Renee.Turner@LawSociety.org.uk

Officer's Telephone number : 020 7320 5782