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Monday 17 February 2025

Dear FCA colleagues,

Private Intermittent Securities and Capital Exchange System: Sandbox Arrangements

We welcome the opportunity to respond to your consultation on Private Intermittent Securities and Capital Exchange System: Sandbox Arrangements.

The Quoted Companies Alliance *Primary Markets, Secondary Markets*, *Legal, and Share Schemes Expert Groups* have examined the proposals and advised on this response from the viewpoint of small and mid-sized quoted companies. A list of Expert Group members can be found in Appendix A.

We welcome the framework for the PISCES Sandbox Arrangements set out by the FCA in this consultation. We consider the vast majority of the proposals to be appropriate for the new system and commend the work of the FCA in this area. However, as a general point, we would like to see government and regulators applying at least as much effort to reviving liquidity in the UK's public markets as this exercise seeks to introduce for private companies.

In our response, we include a set of recommendations which we believe will improve the functioning of the PISCES platform.

In the area of sustainability-related disclosures, we recommend the inclusion of guidance in order for the rules to be less prescriptive. Regarding PISCES permissioned trading events, we suggest the FCA consider the inclusion of a standard template that sets out any restrictions in this area, for example, on maximum shareholder participation. We also recommend against the inclusion of a mandatory sweeper arrangement and believe that the FCA should review company performance in this area around supplementary information disclosures.

We would also welcome the introduction of a roadmap, possibly in diagram form, for potential PISCES companies that sets out the steps a typical company will go through as they look to become a PISCES company. This should aid understanding of the process and help facilitate use of the platform among prospective companies.

As a final point, given the well documented shrinking of the UK's public markets in recent years, there is a risk that PISCES becomes an end in itself for growth companies so that they have no real incentive to join the public markets, or they elect to leave our public markets. To ward against this, we believe that the FCA should monitor and report on the movement of companies from PISCES to the UK public markets, and vice-versa and should continue to energetically pursue the exercise of making our public markets more accessible and attractive so as to avoid a situation where the success of PISCES is achieved at the expense of our UK capital markets. Based on this data, the FCA should detail any future reforms it proposes to ensure that the platform is fulfilling one of its key purposes of providing a stepping-stone for private companies to eventually become public. This is particularly salient as PISCES is a restricted market and will not be accessible to a wide range of investors.

Alongside a roadmap for prospective PISCES companies to access the platform, we would welcome a similar roadmap detailing how the FCA envisages private companies can graduate from PISCES onto the public markets.

If you would like to discuss our response in more detail, please do not hesitate to contact us.

Yours sincerely,

James Ashton.

James Ashton
Chief Executive

Q1 Do you agree with the proposed approach to disclosures? Y/N. Please give your reasons.

Yes. Overall, we consider that the proposed approach to disclosures is sensible.

Q2 Do you agree with the proposed approach for only requiring trading intentions from directors in PISCES companies? Y/N. Please give your reasons.

Yes. However, we also note the proposal that PISCES operators and PISCES companies may choose to disclose the trading intentions of major investors. Where this is the case, there may be practical issues around collecting the information as shareholders may be reluctant to reveal their intentions in advance, which will be a restraint on trading.

Consideration should be given to whether shareholders should have to disclose either a trading intention that may result in them holding a significant percentage of the share capital or increase or reduce an existing significant percentage holding by a threshold amount (accepting that this can only ever be a disclosure of an intention given that actual purchases or sales will depend upon pricing and demand levels. Such disclosures would be particularly helpful where, for example, an existing PE investor is looking to use the PISCES facility as a mechanism for a full or partial exit.

We would like to see greater clarity around instances where a director is a representative of a major shareholder. Specifically, that the intention is of the director personally and that this is not meant to capture shareholder intentions indirectly. However, where the director is themselves the major shareholder, this would not exempt them from disclosure relating to their personal holdings.

It is also unclear what the disclosure requirements are/expected to be post-trading event should the directors not trade, that is, their intention is not a firm commitment. In the event their intention does not materialise in their dealing, there is a question as to whether there should be a requirement for them to state the reasons why. Indeed, the "intention to deal" concept was brought in for MAR purposes/AIM rules in order that directors do not deal on inside information when their companies hold placings. Given MAR will not apply on PISCES, this technical issue should, in theory, fall away.

Q3 Do you agree with the proposed 10% threshold for identifying major shareholders? Y/N. Please give your reasons.

Yes – private companies considering PISCES might have many minority shareholders, such as employees, with holdings below 10% and to identify all shareholders would be onerous and would not provide valuable disclosure.

Q4 Do you agree with the proposed approach for PISCES operators to specify their own arrangements for identifying major shareholders rather than using the PSC Register? Y/N. Please give your reasons.

Yes. The PSC register only discloses 25% or greater share interests, and the up-to-date information should be available at Companies House. The Rules should specify a consistent basis for the disclosure of interests, which should, for instance, prevent nominees being used to hide an investor’s involvement. Defining ‘an interest’ should not be unduly complicated.

Q5 Do you agree with our proposed approach to sustainability related disclosures? Y/N. Please give your reasons.

Yes. The materiality standard allows the PISCES company, which is in the best position, to form a view on what is relevant. It would be helpful to have guidance available, which should avoid the need for the Rules to be more prescriptive. We suggest that such guidance should follow the principle of proportionality by recognising that smaller private companies are unlikely to have the resources to make the level of disclosure that might be expected of, for example, a large PE – backed private company.

In terms of disclosure, we consider certain factors relevant for valuing shares for tax purposes. We note that these disclosure requirements mean that this information would fall within the information standards when determining the value for UK tax purposes in connection with any employment related securities, even though employees would not automatically have access to this information.

Q6 Do you agree with the proposed information included on the core information list? Y/N. Please give your reasons.

Overall, yes. The proposed information included on the core information list appears to be comprehensive without being excessive. We would propose that further clarification on the Business Overview is provided and that specifically, market size and market position information relevant to PISCES investors should also be included in the core information list.

In relation to the Financial Information, we consider that any financial statements should be drawn up in accordance with an accepted accounting standards. Since unaudited financial statements will be permitted, there should be clarity on the standards used by the PISCES company.

In relation to Risks, in the context of a PISCES market, we have some concern that there will be lengthy risk factors provided by PISCES companies to mitigate liability to PISCES investors. We have seen from public market experience and prior consultations by the FCA that there have been successive reviews to curtail the seemingly continues expansion of risk factors. Given the broad Investor Risk Warnings provided under the consultation, parameters limiting risk factors in the Core Information would be beneficial to PISCES.

Q7 Do you agree with the proposed approach to set out options for the disclosure of additional information? Y/N. Please give your reasons.

Yes. In addition, and while it is appreciated that the MAR principles will not apply, consideration should be given as to whether PISCES companies should be obliged to make a material disclosure, which has not been made through the PISCES operator, available through the operator within a reasonable time (noting that in most cases such disclosure would likely fall within the "Corrections and Amendments" regime proposed in para 3.43 – 3.45 of the CP in any event).

Q8 Do you agree with the proposed options and related guidance for each option described above? Y/N. Please give your reasons.

Yes. Overall, the proposed options and related guidance are reasonable.

Q9 Do you prefer the alternative approach of mandating a sweeper arrangement, to disclose supplementary information? Y/N. Please give your reasons.

No, we do not consider this to be preferable. However, we consider that it is beneficial to maintain it as one of the options available to operators.

For example, where there is not a sophisticated investor leading on questioning in an 'Ask' Model, having some form of sweeper responsibility on the company would be beneficial to investors. This could be catered for at the operator level and be case specific if a mandatory model is not introduced. We believe that this is an area where the FCA should be monitoring the performance of companies regarding how and when companies choose not to respond.

Q10 If you have answered Yes to Q9, do you agree with our proposal for the mandatory sweeper arrangement? Y/N. Please give your reasons.

We agree with the suggested manner of operation of the sweeper arrangement but, as stated in our response to Q9, on the basis that this is not mandatory and discretion is allowed to determine whether an 'Ask' Model or a sweeper model should be adopted in individual cases. The directors, with guidance from the Operator where appropriate, are in the best position to decide what is relevant.

Q11 Do you agree with our proposed approach for rules on legitimate omissions of PISCES core disclosure information? Y/N. Please give your reasons.

Yes. Subject to considering whether 2.3.4 R (3) should have some form of reasonableness qualification such as "reasonably prevent". Without that, the rule is potentially open to abuse. This is also an area the FCA should place under review during the sandbox operation to monitor whether additional clarification of the legitimate omission requirements is necessary.

Q12 Do you agree with our proposed approach for correcting and amending information? Y/N. Please give your reasons.

Yes. However, it is not clear whether these obligations are on-going or only apply while a trading event is still live. Apart from the ability of the operator to postpone events, consideration should be given as to whether an investor should have withdrawal rights.

Q13 Do you agree with our proposed approach on the availability and timing of disclosures? Y/N. Please give your reasons.

Yes. Subject to clarification on when the obligations apply as set out in our response to Q12.

Q14 Do you agree with our proposed approach for the formatting of disclosures? Y/N. Please give your reasons.

Yes.

Q15 Do you agree with our proposed approach to post-trade disclosures? Y/N. Please give your reasons.

Yes. Subject to disclosing increments of shareholdings above (or which take a shareholder below) 10%. In such cases we suggest that increases of more than, for example, 3% or 5% should be considered relevant for disclosure.

Q16 Are there any other post-trade disclosures that should be required? Y/N. Please give your reasons.

Please see our comments in Q2 regarding director's 'intention to deal'.

Q17 Do you agree with the information we have specified as forward-looking statements in the core disclosure information? Y/N. Please give your reasons.

Yes. We agree with the information specified as forward-looking statements in the core disclosure information.

Q18 Do you agree with the proposed approach for PISCES operators to monitor the compliance of PISCES company disclosures against their rules? Y/N. Please give your reasons.

Yes. The proposed approach appears to provide a sensible level of scrutiny which is not overly burdensome on the operator. However, it is important to note that the only market abuse regime that is relevant to PISCES companies is the criminal misleading statements regime and therefore there needs to be a robust monitoring programme commensurate with the risks associated in improper/misleading disclosure.

Q19 Do you agree with the proposed approach to the technical requirements for disclosure arrangements? Y/N. Please give your reasons.

Yes. The technical requirements for disclosure arrangements appear sensible.

Q20 Do you agree with the proposed approach that, where an ask-model is applied, PISCES operators' disclosure arrangements must enable investors to submit information requests to companies as part of those arrangements? Y/N. Please given your reasons.

Yes. Provided that the rules afford the PISCES company the ability to refuse unreasonable or onerous requests. We suggest that, to assist PISCES companies and operators to control the volume and timing of questions they may consider designating specific windows when the portal for questions is open – and they may also wish to invite buyers and sellers to supervised management meetings, particularly for more sophisticated PISCES companies.

Q21 Do you agree with the proposed approach to price parameters? Y/N. Please give your reasons.

Yes. We consider that the proposals have the appropriate components of transparency, flexibility for the PISCES company, and oversight by the PISCES operator. As per PS 2.3.2 R (10) share capital issued within the previous 3 years will be required to be disclosed, we query whether this would extend to debt instruments (e.g. subordinated loans) - or would be captured by PS 2.3.2 R (5)(iii) and request clarity from the FCA on this point.

In addition, in instances where a company uses a third-party valuation, clarity as to whether all the elements of the valuation (or the valuation report) should be part of the disclosure is required. There may be elements of a valuation report that fall under the legitimate omissions and allowance should therefore be made for this.

However, it is important to note that some members considered that it may be problematic to let the issuer decide the price of its shares. This would be a novel concept as it does not occur in private fundraises, IPOs and placings whereby price discovery is achieved through dialogue between issuer and investor and could therefore lead to artificial valuations.

Q22 Do you agree with the proposed approach to PISCES permissioned trading events? Y/N. Please give your reasons.

Yes. Overall, we consider that the proposed approach seems sensible. However, we would query whether a standard template could be developed with "placeholders" for commonly encountered restrictions, for instance, restrictions on maximum shareholdings and the types of competitors not entitled to participate.

We welcome the approach that, new restrictions should not be imposed on existing shareholders in a PISCES trading event and the exception to recognise contractual restrictions on the transfer of shares by employees, for example restrictions on the disposal of shares by an employee within a specified period of the award, or until specified targets have been achieved.

Q23 Do you agree with the proposed approach to public trading event notifications? Y/N. Please give your reasons.

We note that the proposal for notifications may involve notifying all employees of the relevant company and its group, if employees are to be able to participate in the PISCES trading event. A company might wish to limit this to, for example, employees with a certain number of months/years' of service or at specified levels. An example might be a company in the hospitality industry where notifying all temporary staff would be onerous.

It would be beneficial if the FCA were able to confirm that the notification would not constitute a financial promotion.

Q24 Do you agree with the proposed approach to PISCES pre- and post-trade transparency data – including the required data and the dissemination and record-keeping of transparency data? Y/N. Please give your reasons.

Yes. The proposed approach appears to be comprehensive.

Q25 Do you agree with the proposed approach to PISCES operators' complaints procedures? Y/N. Please give your reasons.

Yes. The approach appears sensible.

Q26 Do you agree with the proposed approach that a PISCES operator's rules must enable it to refuse or cancel admission if it has serious grounds to conclude that a PISCES company is not, or is no longer, willing or able to comply with its rules? Y/N. Please give your reasons.

Yes. However, cancellation in particular could have a serious impact on investors, particularly where they invested on the understanding that the company would be creating future liquidity using the PISCES facility. Therefore, this sanction should only be available where serious grounds for it are present.

Q27 Do you agree with the proposed approach to the powers a PISCES operator must have to postpone, suspend and terminate PISCES trading events? Y/N. Please give your reasons.

Yes. However, there is a balance between the detrimental effect on investors and the need to protect the integrity of the market, these are sanctions which clearly should be available.

Q28 Do you have any further comments on our general approach to PISCES operators' disciplinary arrangements?

We have no comments.

Q29 Do you agree with our framing of risks in our proposed PISCES Market Risk Warning? Y/N. Please give your reasons.

Yes, with the proviso that the operator may require supplemental risk warnings to be included for example where employees with limited investment knowledge and experience are potential eligible PISCES investors. In addition, in such cases, there might need to be more information given about the limited rights of recoupment which may be available to such investors, including those noted in paragraph 5.4.

In addition, we suggest that there should be clear guidelines as to what changes PISCES operators may make to the final wording.

Q30 Do you agree with our overall proposed approach to the PISCES Market Risk Warning? Y/N. Please give your reasons.

Please see our answer to Q29 above.

Q31 Do you agree with the proposed approach to manipulative trading practices as described above? Y/N. Please give your reasons.

Please see our answer to Q29 above.

Q32 Do you agree with the proposed approach to monitoring arrangements? Y/N. Please give your reasons.

Yes.

Q33 Do you agree with the proposed approach to notification requirements? Y/N. Please give your reasons.

Yes.

Q34 Do you agree with the proposed approach to record keeping requirements? Y/N. Please give your reasons.

Yes.

Q35 Do you agree with the proposed guidance for intermediaries on market manipulation? Y/N. Please give your reasons.

Yes.

Q36 Do you have any comments on the above draft proposals?

We have no comments.

Q37 Do you agree with our proposal to ban incentives to invest in PISCES shares?

It needs to be clarified as to whether such bans on incentives to invest include preventing the company from making loans to an employee to facilitate the acquisition of PISCES shares.

Q38 Do you agree with our proposed requirements for risk warnings and the proposed risk warnings, as outlined in paragraphs 7.29 to 7.40?

Please see our response to Q29. Some employee participants may be unsophisticated and would benefit from such risk warnings.

Q39 Do you agree with our proposed rule to require intermediaries to establish that an individual retail investor is a 'PISCES investor' before distributing a PISCES share? If not, why not?

Yes.

Q40 Do you agree with our other proposed rules and guidance on the relevant retail PISCES investor categories? If not, why not?

Yes. We are pleased to note that sophisticated, high net worth individuals, and company employees are permitted as investors through the platform.

However, the practicality of the PISCES Company having to provide a certified list of such qualifying individuals seems unnecessarily complicated. Given that, under 4(4)(a)-(d) of the PISCES Statutory Instrument, there are several individuals who are not direct employees of the PISCES Company, we believe that any relevant individual being asked to certify such a list will likely be burdensome for companies. Instead, having this information supplied only by a director (or even a disclosing officer, as defined), should be sufficient.

Q41 Do you agree with our proposal to impose a requirement for employees that are not high net worth or sophisticated investors to sign a restricted investor statement?

This appears to be a sensible proposal but may be difficult to monitor and difficult for an individual to accurately calculate 10% of their net assets.

Q42 Do you agree with our proposal that a firm can only distribute a PISCES share once it has assessed its appropriateness for the retail client? Do you agree with the proposed appropriateness test guidance?

Whilst this appears a safeguard, if there are many applications for shares from, for example, employees, this is potentially time consuming and burdensome for a firm to implement. For example, intermediaries will need to comply with a host of requirements including COBS 10 Annex 1 assessment, 'reasonable belief' for client categorisation purposes, Financial Promotion Order (FPO) approvals, and risk warnings.

In addition, there will be further data costs for firms' trading systems in order that they can effect the transaction alongside the STOR/Market Observation regime, and the extent to which a firm will need to include such activity in its automated market abuse surveillance. Given these issues, we believe that the FCA should provide greater clarity on how they intend to make PISCES less onerous for firms who wish to act as intermediaries on the platform.

Q43 Do you agree that there should be a 24-hour cooling off period for new retail clients before placing a first order for a PISCES share?

We do not consider that this period is long enough to be effective.

Q44 Do you agree with the proposed record keeping requirements for intermediaries regarding financial promotions for PISCES shares?

Yes. However, consideration should be given as to whether they should extend to recording the information received from the PISCES company.

Q45 Do you consider we should implement any other promotion and/or distribution requirements on intermediaries, in addition to what is set out in this chapter, which seek to protect retail investors? If so, what other requirements should we implement?

No. The requirements appear to be sensible as they are.

Q46 Do you agree with the proposed approach to apply a modified version of MAR 5 to all PISCES operators? Y/N. Please give your reasons.

Yes.

Q47 Do you believe there are areas where the broader proposed PISCES regime may conflict with our proposed modified application of MAR 5? If so, please provide specific details of these areas.

We have no comments.

Q48 Do you agree with the proposed approach to apply a modified version of MAR 5AA to firms operating a PISCES platform? Y/N. Please give your reasons.

Yes.

Q49 Do you agree with the proposed approach to modifying REC? Y/N. Please give your reasons.

Yes.

Q50 Do you believe there are other areas where the proposed PISCES regime may conflict with existing REC rules and guidance, requiring further amendment?

We have no comments.

Q51 Do you agree with the proposed approaches to modifying PRIN, SYSC, MIFIDPRU, COBS, SUP and COLL? Y/N. Please give your reasons.

Yes.

Q52 Do you agree that the Financial Ombudsman's protections should be available to PISCES investors? Y/N. Please give your reasons.

Yes.

Q53 Do you agree that DISP does not need to be modified? Y/N. Please give your reasons.

Yes.

Q54 Do you agree that the FSCS protections should apply to PISCES? Y/N. Please give your reasons.

Yes.

Q55 Do you agree with the proposed approach to modifying COMP? Y/N. Please give your reasons.

Yes.

Q56 Do you believe there are other areas where the proposed PISCES regime may conflict with existing technical standards, requiring further modifications? Y/N. Pease give your reasons.

We have no comments.

Q57 Do you have any comments on our proposal to charge a Category 6 fee (currently £10,880) for applications to operate a PISCES?

Whilst appreciating the need for all parties working with the relevant company for PISCES, as there is no fundraising opportunity for the company, the overall costs will be a significant factor in deciding whether to engage with PISCES.

In addition, the terms “member” and “participant” are used in the Sourcebook, but do not appear to be defined. We believe that these should be defined.

Appendix A

The Quoted Companies Alliance *Primary Markets Expert Group*

Samantha Harrison (Chair)	**Grant Thornton UK LLP**
Colin Aaronson	Grant Thornton UK LLP
Mark Brady	Spark Advisory Partners Limited
Giles Balleny	Cavendish
Andrew Buchanan	Peel Hunt LLP
David Coffman	Novum Securities Limited
Dru Danford	Panmure Liberum Limited
David Foreman	Zeus Capital
Bobbie Hilliam	Canaccord Genuity
Nick McCarthy	Shoosmiths LLP
Katy Mitchell	Zeus Capital
Nick Naylor	Allenby Capital
Jeremy Osler	Cavendish
Niall Pearson	Hybridan LLP
Mark Percy	Shore Capital Group Ltd
Oliver Pilkington	Shoosmiths LLP
George Sellar	Peel Hunt LLP
James Spinney	Strand Hanson
Fred Walsh	Stifel

The Quoted Companies Alliance *Secondary Markets Expert Group*

Amber Wood (Chair)	**Panmure Liberum**
Jasper Berry	Cavendish
Andrew Collins	Charles Russell Speechlys LLP
Richard Crowley	KPMG LLP
Fraser Elms	Herald Investment Management Ltd
Richard Fenner	Euroclear UK & International
William Garner	Charles Russell Speechlys LLP
Jon Gerty	Peel Hunt LLP
Alex Giacopazzi	Winterflood Securities Ltd
Mitchell Gibb	Stifel
Keith Hiscock	Hardman & Co
Niall Pearson	Hybridan LLP
Jeremy Phillips	CMS Cameron McKenna Nabarro Olswang LLP
Katie Potts	Herald Investment Management Ltd
Chris Robinson	Panmure Liberum

Stephen Streater	Blackbird Plc
Peter Swabey	C/o The Chartered Governance Institute

The Quoted Companies Alliance *Legal Expert Group*

Mark Taylor (Chair)	**Dorsey & Whitney (Europe) LLP**
Stephen Hamilton (Deputy Chair)	**Mills & Reeve LLP**
Paul Airley	Fladgate LLP
Danette Antao	Hogan Lovells International LLP
Paul Arathoon	Charles Russell Speechlys LLP
Kate Badr	CMS
Naomi Bellingham	Practical Law Company Limited
Ross Bryson	Mishcon De Reya
Caroline Chambers	Simmons & Simmons LLP
Philippa Chatterton	CMS
Paul Cliff	Gateley
Matt Cohen	Stifel
Jonathan Deverill	DAC Beachcroft LLP
Sarah Dick	Stifel
Tunji Emanual	Lexis Nexis
Kate Francis	Dorsey & Whitney (Europe) LLP
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Kate Higgins	Mishcon De Reya
Nicholas Jennings	Locke Lord LLP
Jonathan King	Osborne Clarke
Jennifer Lovesey	KPMG
Nicholas McVeigh	Mishcon De Reya
Catherine Moss	Shakespeare Martineau LLP
Hilary Owens Gray	Practical Law Company Limited
Kieran Rayani	Stifel
Jaspal Sekhon	Hill Dickinson LLP
Daniel Simmons	Hogan Lovells LLP
Robert Wieder	Faegre Drinker LLP
Sarah Wild	Practical Law Company Limited
Nick Williams	DMH Stallard LLP
John Young	Kingsley Napley LLP

The Quoted Companies Alliance *Share Schemes Expert Group*

Jennifer Rudman (Chair)	**Equiniti**
Fiona Bell (Deputy Chair)	**RSM UK Group LLP**

Simon Allum	LexisNexis
Chris Barnes	KPMG LLP
Danny Blum	Eversheds Sutherland
Ian Brown	Slaughter and May
Michael Carter	Osborne Clarke
Sakhee Ganatra	Mishcon De Reya
JD Ghosh	MM & K Limited
Andy Goodman	BDO LLP
Elissavet Grout	Travers Smith LLP
Caroline Harwood	BDO LLP
Helen Hopkins	Link Group Service Company Limited
Stuart James	MM & K Limited
Graham Muir	CMS
Isabel Pooley	Grant Thornton UK LLP
Ian Shaw	Korn Ferry
Nicholas Stretch	Stephenson Harwood