



## Listing Bespoke Debt on the Cayman Islands Stock Exchange

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As a result of recent regulatory developments in the European Union, particularly the Market Abuse Regulation, the Cayman Islands Stock Exchange (the “CSX”) has experienced a surge in listings. A majority of these listings relate to standard publicly issued debt, but many are much more bespoke and the CSX has quickly garnered a reputation as being the international exchange of choice for these listings.

The CSX acknowledges and understands the practical and commercial issues arising in connection with a proposal to list debt issued in a bespoke, private or commercially sensitive transaction. This advisory provides illustrative examples of how the CSX takes a proactive approach to bespoke listings.

### What are the Obstacles to Listing Bespoke Debt?

The listing rules of most exchanges are designed to broadly facilitate the general array of debt listings possible, but primarily such rules are designed for the listing of public debt issued pursuant to an offering document that contains extensive disclosure for the benefit of prospective investors. Fortunately, the listing rules of the CSX (the “CSX Listing Rules”) have rules that are only applicable to “specialist debt securities” and “corporate and sovereign debt securities”, which can facilitate the listing of more bespoke securities by way of granting exemptions/ derogations.

Bespoke transactions include deals other than conventional public debt issuances, including, but not limited to:

- intra-group restructurings, including debt issued to a number of related parties; or
- the issue of loan participating notes, where there is some sensitivity in relation to the disclosure of information on the underlying obligor/ borrower; or
- aircraft ABS/Leasing transactions where the disclosure of commercially sensitive information (such as details on underlying aircraft leases) could put the sponsor at a competitive disadvantage; or
- transactions where an offering document was not necessary to conclude the transaction but where a “technical” listing would be beneficial to one or more of the transaction parties.

Similar to the listing rules of other exchanges, the CSX Listing Rules are predicated upon adequate disclosure being supplied to investors. The CSX must be satisfied that investors will be able to obtain the necessary information on the assets underlying the debt/ note issuance to enable them to form a reasonable opinion as to the value of such assets. The primary obstacle to listing more esoteric transactions is reconciling the applicable disclosure requirements with the disclosure sensitivities inherent in transactions of a bespoke nature.

## How can the Cayman Islands Stock Exchange Assist?

The CSX will work with prospective issuers who have disclosure concerns and, prior to formally proceeding with a listing, the CSX is willing to engage with issuers and agree in principle alternative approaches to disclosure, provided they are motivated by sound practical and/ or commercial concerns.

Below are examples of solutions that have been agreed previously with the CSX:

- in a number of transactions in which certain information in relation to the underlying assets or obligors was extremely sensitive, it was agreed with the CSX that such information could be omitted from the offering document, provided the issuer would supply the prospective investors with such information on:
  - their signing of a confidentiality agreement;
  - their applying to the issuer for a password to access such details on a secure online platform, whereby the issuer could monitor access and benefit from non-disclosure covenants;
  - the issuer and CSX being supplied with a letter from each of the investors confirming they are sophisticated investors and have all of the information they require to make a determination in relation to the proposed investment (this is particularly useful in an intra-group scenario with a limited number of investors);
- in certain situations the CSX has agreed that the financials of obligors would be supplied to investors on request which avoided general public disclosure of sensitive details and reduced the ongoing obligations and costs of the issuers involved;
- in a transaction concluded without the entry into of an indenture or trust deed, which would usually cover the appointment of, among others, a trustee in a standard debt issue and details of which are required to be included in an offering document, the CSX was willing to permit the listing based on an explanation in the listing application as to how and by whom these functions were to be otherwise discharged; and
- in a variety of transactions, to reduce the amount of disclosure required, the CSX was willing to incorporate information by reference to supplement the information contained in the offering document (e.g. this generally involves appending certain transaction documents to the offering document and making these available for inspection which saves significant time and costs).

## Why the Cayman Islands Stock Exchange?

With listings in excess of 4,600 and a market capitalisation of more than US\$240 billion, the CSX is an ideal choice for both public and bespoke listings. Additional benefits of the exchange include its:

- dynamic operating structure, which is flexible, responsive, efficient and boasts a competitive fee structure;
- recognition as a Stock Exchange for the *UK Income Tax Act, 2007*, which facilitates a “Quoted Eurobond Exemption” for debt securities issued, which means issuers may make interest payments without a deduction of withholding taxes;
- international recognition as a listing centre for debt securities and investment funds - a reputation which has grown since the first issuer was listed in 1997, including by the International Organisation of Securities Commission and World Federation of Exchanges;
- fast document turnaround time (readers generally provide comments on documentation submitted within 2-3 days);
- marketability for promoters and arrangers;
- straightforward disclosure and continuing obligations, which are more efficient to comply with than other exchanges, particularly those subjected to the EU Directives; and
- sensitivity to commercial requirements for confidentiality (offering documents are not available online and may only be reviewed in hard copy at the offices of the CSX in the Cayman Islands).

## How can Conyers Assist?

Conyers (a registered listing agent of the CSX) has extensive listing experience and an excellent relationship with the CSX. We can identify and pre-empt listing hurdles inherent in bespoke transactions, suggest solutions and intermediate with the CSX to ensure the required listing is achieved.

Conyers supports onshore counsel and ensures that the listing/ offering document is in compliance with the CSX Listing Rules. Alternatively, Conyers can prepare or support onshore counsel in the preparation of a compliant listing document. Conyers also prepares the ancillary listing documents and checklists required by the CSX.

For more information on how we can assist you with a CSX listing, please contact one of our team listed below.

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