



Relaxing of PEG principles on pre-emption rights

Updated as of 8 April 2020

In a measure designed to allow companies to raise capital more easily during the current crisis, on 1 April 2020, the Pre-Emption Group (PEG) announced a temporary relaxation of its principles in relation to the disapplication of pre-emption rights.

Pre-emption rules

Pre-emption rules, set out in Companies Act 2006 and in the Listing Rules, are aimed at protecting investors from having the value of their shareholdings diluted by subsequent share issues. They require existing shareholders to be first offered the right to buy a number of the new shares, before they are offered in the market, in proportion to their existing shareholding.

It is however open to shareholders to disapply pre-emption rights, either on a case-by-case basis or on an annual basis, and companies commonly do this on an annual basis at their AGM.

The PEG and its Principles

The Pre-Emption Group, formed from members representing listed companies, investors and intermediaries, produced a statement of principles to be taken into account by companies when considering the case for disapplying pre-emption rights.

The statement of principles is basically an agreement that shareholders won't usually support the annual disapplication of pre-emption rights unless it meets certain criteria as to size (maximum 10% of the Company's existing share capital) and to lasts no more than 15 months.

The principles are directed at all companies with a Main Market [premium listing](#). However, companies admitted to the Standard Listing or [High Growth](#) segments of the Main Market, or to trading on [AIM](#) are also encouraged (although not required) to comply.

Temporary changes

The PEG has, due to the current unparalleled economic situation, now recommended that investors consider supporting issuances of up to 20% of a company's share capital without the need for a prospectus, although

this should be considered on a case-by-case basis.

This change is temporary, expected to be in place until 30 September 2020. The PEG has said it will reconvene before then to assess how companies and investors have responded.

The change has been welcomed by industry groups as many companies are considering a cash raise as a result of the COVID-19 pandemic.

Practical guidance

The PEG has provided additional guidance for companies wanting to make use of this temporary relaxation of the principles:

1. the company should fully explain its particular circumstances (including how it is supporting its stakeholders);
2. the issuance should be made on a 'soft pre-emptive' basis (i.e. existing shareholders favoured in terms of participation) as far as possible;
3. the company's management team should participate in the allocation process;
4. a representative sample of the company's major shareholders should be properly consulted;
5. where a company issues up to 20% of its capital, it will be expected to disclose in its next annual report information about the consultation undertaken prior to the issuance and the efforts made to respect pre-emption rights, given the time available; and
6. existing share awards should not be normalised to negate the dilutive effect of the extended issuance and the directors of the company will be held accountable for their decisions at the AGM following its use.

The full statement can be found [here](#).

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