

ALLEN & OVERY

Ahead of the Curve:
Impact of UK regulatory
developments on
primary markets
architecture

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Ahead of the Curve: Impact of UK regulatory developments on primary markets architecture

Today's Ahead of the Curve topics

1 But first, the news...

2 The changing UK regulatory framework

3 Impacts of changes to the public offers and admission to trading regime



But first, the news...

Today's key focus areas

- FCA, PRA and Bank of England speeches
- Law and regulation updates
- Hot topic updates: data and AI, crypto, ESG and financial stability
- Other regulator activity
- Expected timings for related developments

But first, the news...

Recent speeches given by the regulators

FCA

AI: Flipping the coin in financial services

Jessica Rusu, FCA Chief Data, Information and Intelligence Officer – 5 October 2023

FCA

Updating and improving the UK regime for asset management: our priorities

Ashley Alder, FCA Chair – 12 October 2023

FCA

Collaborate to compete: why we must all embrace a growth mindset

Nikhil Rathi, FCA Chief Executive – 16 October 2023

PRA

Bank failures

Sam Woods, PRA Deputy Governor for Prudential Regulation and CEO – 16 October 2023

BoE

Cyber risks and operational resilience: getting prepared

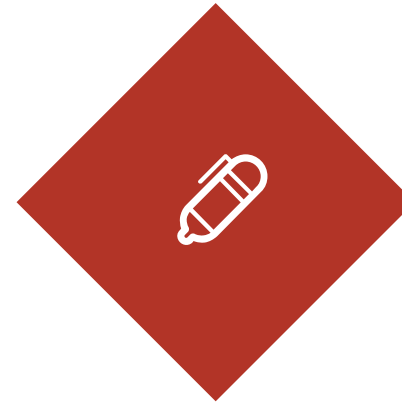
Elisabeth Stheeman, External member of the Financial Policy Committee – 18 October 2023

But first, the news...

Law and regulation updates

Competitiveness of UK markets

Draft Companies (Strategic Report and Directors' Report) (Amendment) Regulations 2023 withdrawn

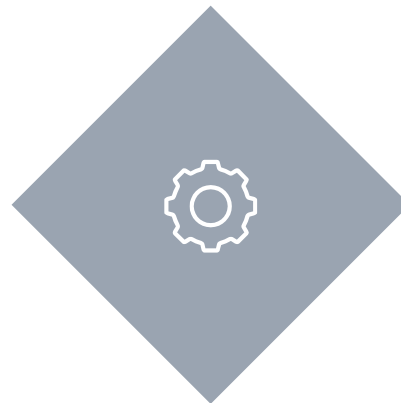


UK Securitisation regime

Addendum to FCA consultation CP 23/17 to confirm scope of exception for institutional investors delegating to occupational pension schemes

Resolution regime for CCPs

Draft Resolution of Central Counterparties (Modified Application of Corporate Law and Consequential Amendments) Regulations 2023 published



PRA occasional paper

Proposed changes to the way the FSCS pays compensation and Consumer Duty updates to SM&CR forms

But first, the news...

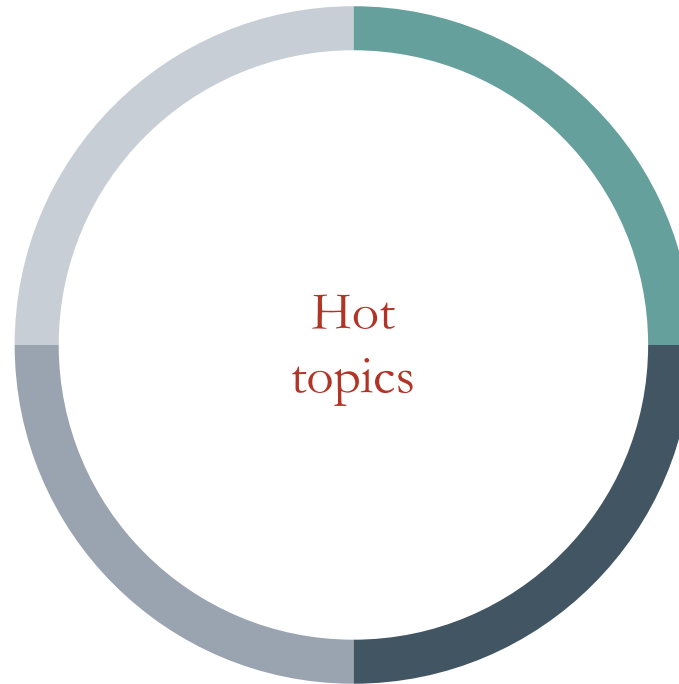
Key recent events and publications on cross-cutting hot topics

Data and AI

- Independent Evaluation Office of BoE report on BoE use of data to support policy objectives
- FCA speeches (see earlier slide)
- Open Banking Limited publication of data collection frameworks

Crypto

- FCA regulation of cryptoasset promotions
- FCA alerts about cryptoasset promotions
- FCA updated feedback on applications made under the AML/CTF regime



ESG (including D&I)

- Transition Plan Taskforce disclosure framework published
- CMA Green Agreement guidance published
- Protect environmental whistleblowing guidance published
- House of Commons Sexism in the City inquiry: oral and written evidence updates

Financial stability

- BoE Financial Policy Committee report: Financial Stability in Focus
- BoE Financial Policy Summary and Record

But first, the news...

Other regulator activity

- 1 PRA annual assessment of credit unions
- 2 FCA publishes details of how to register as a designated reporter
- 3 FCA progress on intermittent trading venues
- 4 Regulator and industry engagement on UK EMIR

But first, the news

Expected timings for developments in relation to today's (and some previous) Ahead of the Curve topics

- FCA to consult on: (i) non-equity transparency; (ii) commodity derivatives; (iii) overseas fund regime; (iv) rules/guidance for critical services providers
- HMT to publish CCP Resolution draft SIs on: (i) cash call; (ii) safeguarding; (iii) deferment
- Technology Working Group to publish blueprint for fund tokenisation
- Regulators to publish updated Regulatory Initiatives Grid
- FCA to review regulatory reporting regime (asset management)

Q4 2023

2024

2025

- FCA to consult on: (i) AIFMD rules; (ii) retail fund rules
- HMT to publish CCP Resolution draft SI on compensation and value
- Expected consultation on UK EMIR
- Expected significant progress on intermittent trading venue
- Expected development of Investment Research Review recommendations (H1)

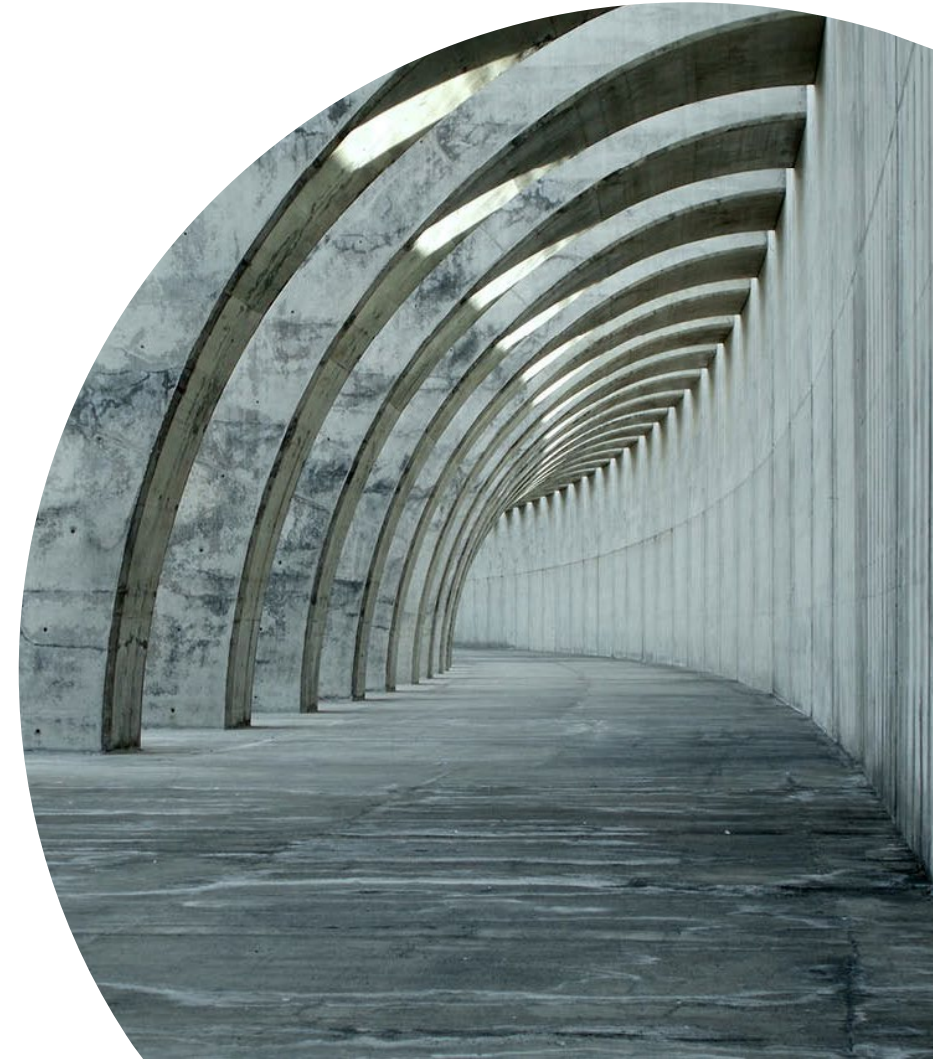
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Today's Ahead of the Curve topics

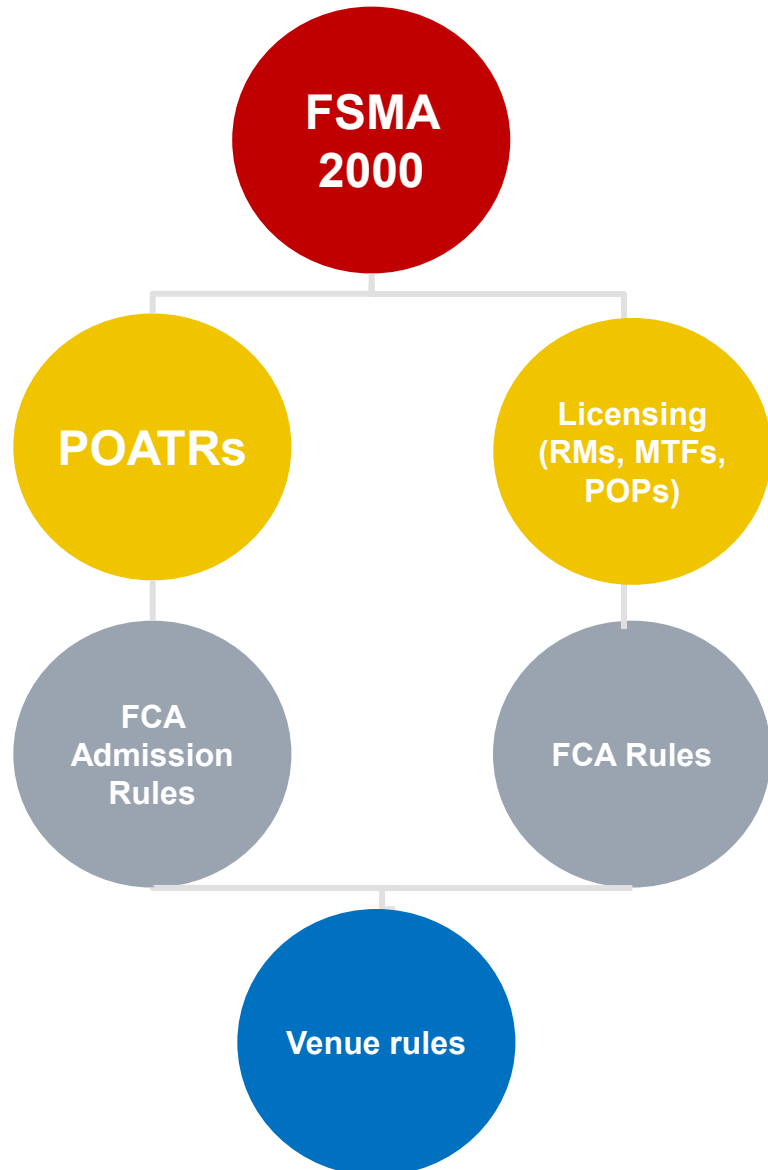
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A refresher on the DAR and the new legislative framework

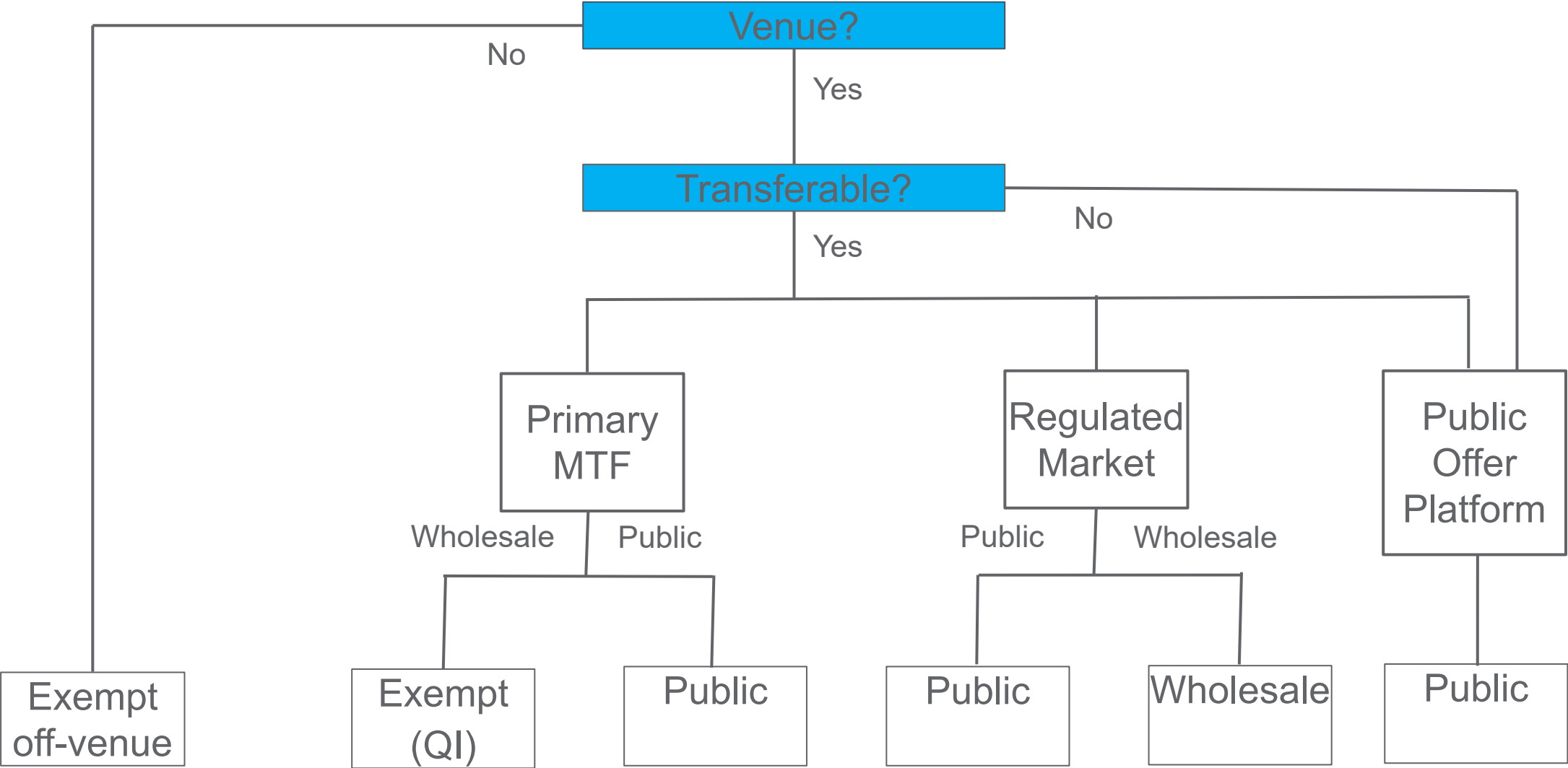


Understand the new model – legislation v rules

Role of HMT/secondary legislation

- 
- 1 Perimeter – activities in scope – public offer, admission to trading, advertising
 - 2 Prohibitions – public offer
 - 3 Rulemaking – admission rules
 - 4 Prospectus standards
 - 5 Powers of FCA - supervision, investigation, enforcement

New architecture - available offer routes



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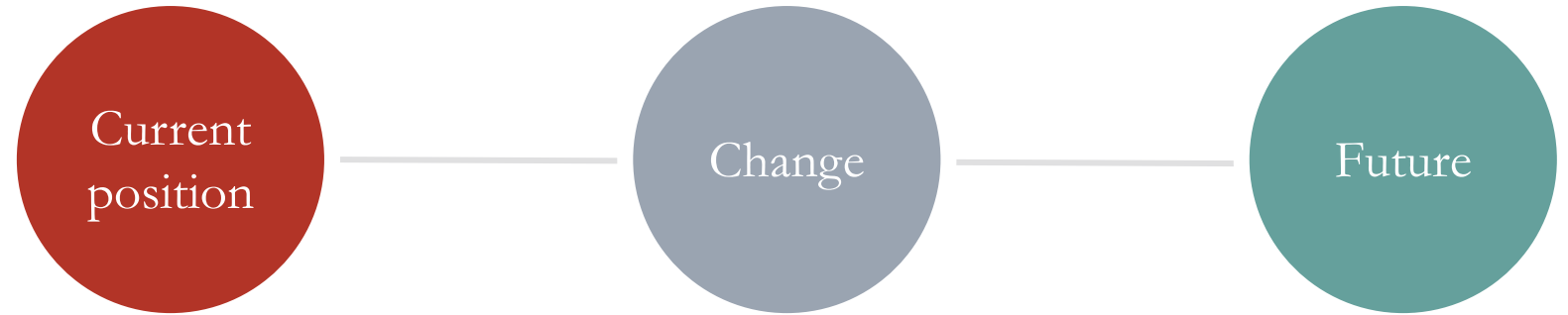
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The UK prospectus regime will be revoked and replaced



- UK Prospectus Regulation
- Securities shall only be offered to the public in the UK after prior publication of a prospectus
- Securities shall only be admitted to trading on a regulated market situated or operating in the UK after prior publication of a prospectus

- The Government will revoke the regime currently contained in the UK Prospectus Regulation and replace it

- Separation of regulation of public offers from the regulation of admission of securities to trading
- Public offers – provisions will reside in legislation and prospectuses will not feature
- Admission to trading – Government will delegate a greater degree of responsibility to the FCA to regulate

The new regime will be framed under the Public Offers and Admission to Trading Regulations using the FSMA 2023 designated activity architecture



Elements of the new regime will be hardwired into legislation



FCA engagement papers (equity) – End goal of a proportionate, supportive disclosure regime, that sits alongside the other disclosure regimes, largely replicating existing regime, but with targeted impactful changes

Alignment with other international regimes; dual listings

Consistency between different UK disclosure regimes

Further share issuances (% trigger)

Takeover offer exemption

Universal registration / shelf registration document

Complex financial histories

Working capital

Sustainability related disclosures

Protected forward looking statements

FCA engagement papers (debt) - Maintenance of a well-functioning debt capital markets regime with added improvements, but not burdens, would be welcome

Scope - MMIs and SSA issuance

Single standard of disclosure based on wholesale annexes

Incorporation by reference

Base prospectus supplement regime

Withdrawal rights

ESG disclosures

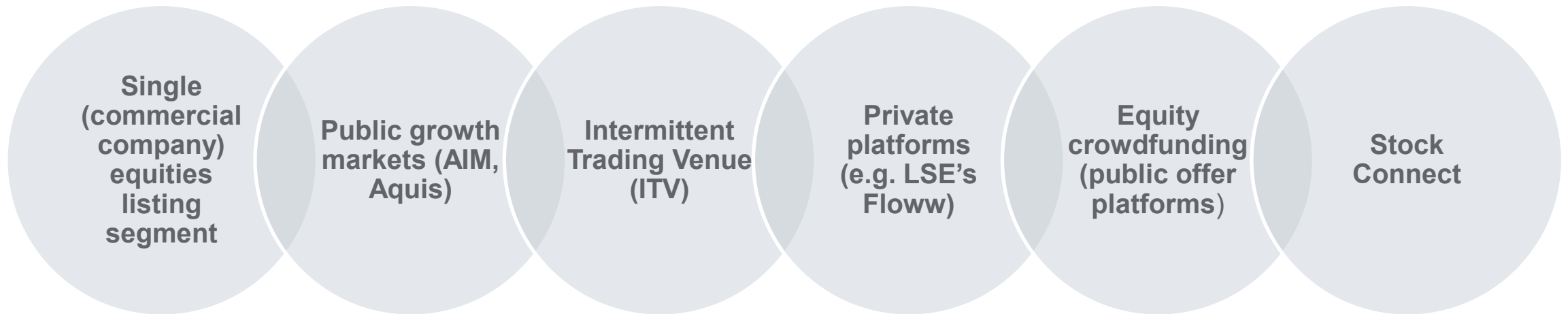
Green bond and SLB disclosures

Protected forward looking statements

MTFs – prospectuses, withdrawal rights and advertisements

Standardised issuance by seasoned UK-listed corporates

Primary markets architecture



Primary markets effectiveness review

1 Removal of financial eligibility requirements – move to a more disclosure based regime

2 Weighted voting rights

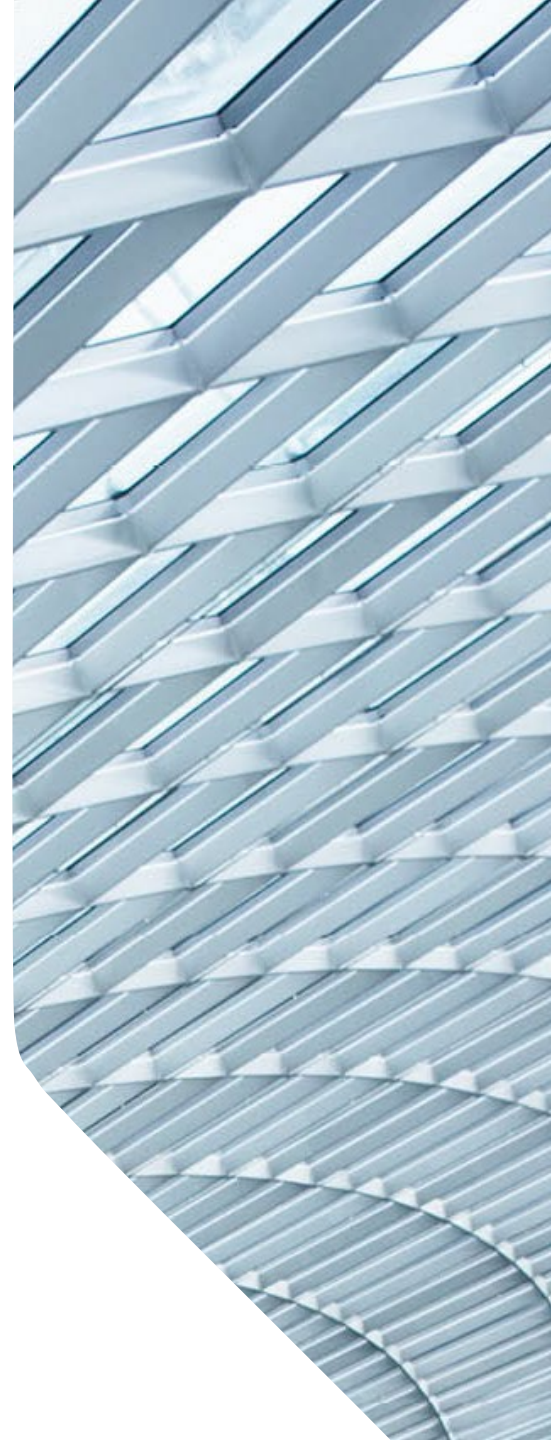
3 Independence, controlling shareholders and related party transactions

4 Significant transaction requirements

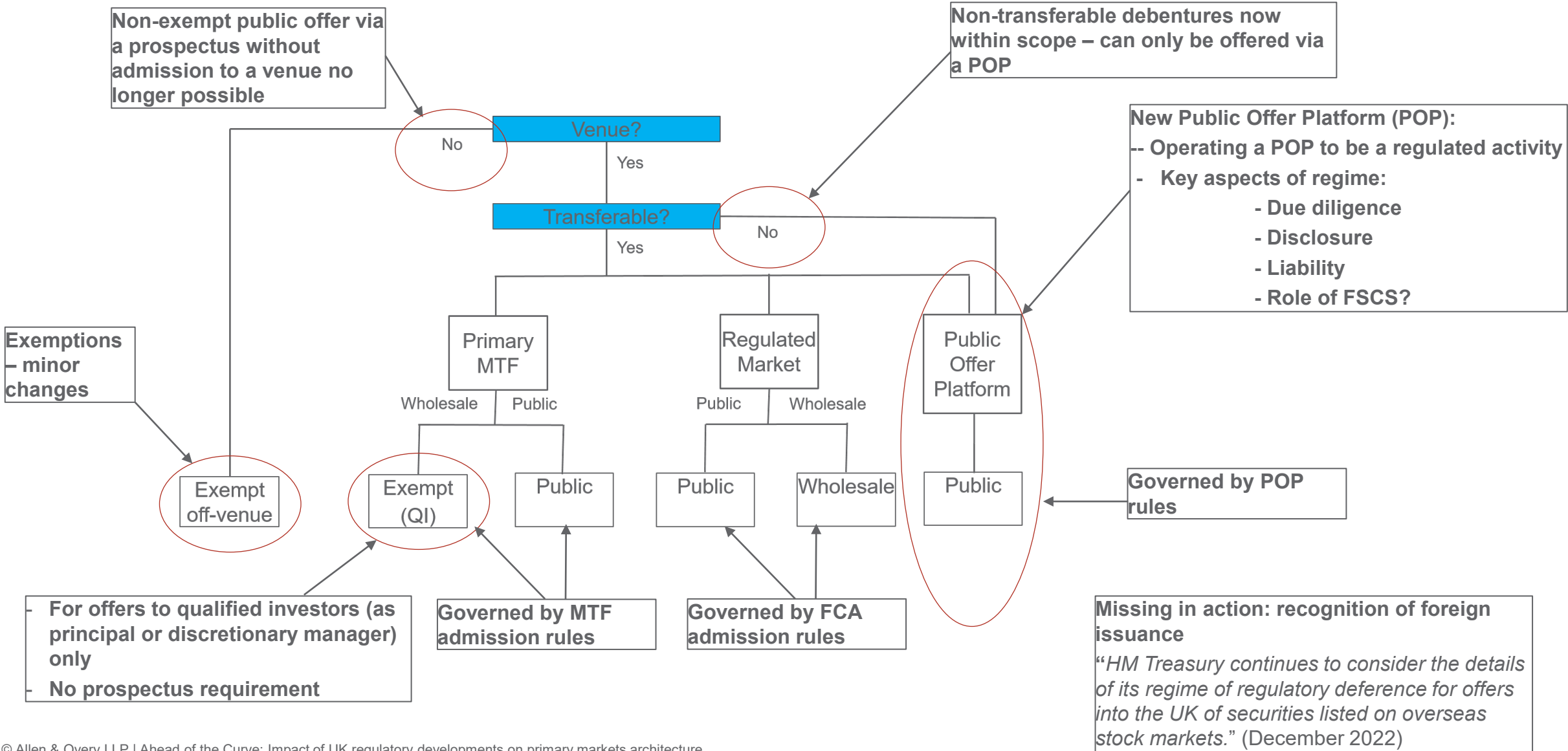
5 Sponsor regime

6 FRC review of corporate governance code

7 Company Act changes to corporate reporting regime



New architecture – what’s changing, and what’s missing?



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