



BULLETIN – 180829/43

Treatment of ‘Confidential Securities’ - unlisted or listed - issued in the ICSDs

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This bulletin updates BULLETIN – 071120/04 – ICMSA Guidelines for the Issuance of Confidential Securities within the ICSDs

Introduction

The ICSDs (Euroclear Bank SA/NV and Clearstream Banking S.A.) allow the international Lead Manager and Issuing Agent community to classify securities (where the ICSDs are the issuer CSDs) in their respective databases as ‘confidential’. Following an assessment of market usage of this service, both ICSDs have observed an increase in the number of financial instruments that are being classified as ‘confidential’. The net result is the security details are being withheld from being displayed on the ICSDs’ websites and thus also to third party market participants.

Background

The confidentiality process is usually initiated at the time the security details are submitted to the ICSDs for eligibility assessment (i.e. prior to closing date). It is at that stage the security can be requested to be flagged as confidential to the market. The effect of flagging an issue as confidential within the ICSDs includes, but is not limited to, preventing visibility on the ICSDs’ websites and the instrument details not being included in any data distributions to external parties. This has the overall result of the issuer name, security description and all other attributes about the financial instrument being withheld.

Evolving global regulations are making clear movements in the direction of increased financial market transparency to all capital market participants. This was a major driver to undertaking a review of the processes around security confidentiality in the pre and post-trade space (i.e. before and after closing date¹). This procedural assessment looked at both listed and unlisted international securities and thus formed the basis of the ICSDs’ enhanced handling procedures.

Scope

This revised ICMSA Bulletin will outline the procedures for confidential securities that the ICSDs will apply with effect from: **1 November 2018.**²

¹ For the purpose of this paper, the legal closing date is synonymous with the issue date.

² Note: Securities that were issued and are live before the noted start date (1 November 2018) will be out of scope of the defined Unlisted Securities procedures outlined in this bulletin.

Listed Securities

The treatment of listed securities that have been flagged as confidential within the ICSDs' databases remain in place and unchanged.

The ICSDs will remove the confidential flag for a listed security on or shortly after the closing date following which the security details will be visible and accessible to third parties. To determine that a security is (or is intended to be) listed on a stock exchange on closing date, the ICSDs will use available reference data sources such as the issue documentation (i.e. Termsheets, Prospectus, Offering Circular etc.) and data vendor information feeds.

In cases where there is no indication of listing, the procedures for unlisted securities will be applied (which are outlined below).

Note: Should the need arise to retain the confidential flag on a listed security (post-closing date) or add the confidentiality flag back to a listed security after it had been removed, the applicable ICSDs' New Issues teams should be contacted (as noted in the 'Unlisted Securities' procedure below), to discuss the request and associated justification behind the request. The reader should also be aware, once the confidential flag is removed, the issue details are available in the public domain and therefore may have been provided to third party market participants and data vendors. Adding the confidentiality flag back will not change this.

Unlisted Securities

The ICSDs will continue to permit the issuance community to categorise an unlisted security as confidential post-issuance under certain conditions; these are described further below. The authorised issuer agent (Lead Manager or Issuing Agent) can request the ICSDs' New Issue teams to apply a confidentiality flag to a specific security in our respective databases at the time of the eligibility request being made i.e. prior to closing date. This will result in the security being flagged as confidential to all market participants until the defined closing date.

In order for the confidential flag to be retained on the security post-closing date, the below steps will need to be followed ([reference Appendix A for the email template to be used](#)):

- The ICSDs must receive a request (by email) from an authorised issuer's agent³ of the security on or shortly after the closing date (i.e. prior to the 15th calendar day of the month following the closing date), instructing the ICSDs to maintain the confidentiality flag for that security;
- One email request must be sent to both ICSDs;
- The email being sent to the respective ICSD teams must contain the following information:
 - ISIN
 - closing date of the security
 - programme number (if applicable)
 - a clear request that the ICSDs to keep the security flagged as confidential post-issuance
 - the reason for keeping the security confidential post-issuance

³ For stand-alone securities an authorised issuer agent is the Lead Manager, B&D Agent and/or the settlement agent for that transaction. For securities issued under a programme the authorised agent is the Issuing & Paying Agent or Warrant Agent.

The contact details for the relevant ICSD teams handling this process are noted below:

Contact email address for Euroclear Bank

The usual email address where you send your ISIN requests or to newissues@euroclear.com

Contact email address for Clearstream Banking

All security types: Oss.securities.data@clearstream.com

- If no formal request to retain the confidentiality flag post-issuance is received, the confidentiality flag will be removed during the next update cycle performed by the ICSDs;
- The ICSDs will perform the confidentiality flag updates on approximately the 15th calendar day of the month following the closing date of that security. Therefore with a start date of 1 November 2018, the first updates that will be done by the ICSDs will take place in mid-December 2018 for securities issued between 1-30 November 2018.
- With the removal of the confidentiality flag, the securities' details will therefore be available to the ICSDs' clients as well as any enquiring third parties;
- Email requests received from an authorised issuer's agent requesting the confidentiality flag is retained for a particular security post-issuance will result in the security remaining flagged as confidential until the ICSDs are advised to the contrary.

De-listed securities

If the Lead Manager or Issuer Agent seek to reinstate a confidentiality flag on a security that has been or will be de-listed – the ICSD procedure and notification contact list outlined above for 'unlisted securities' should be followed. The issuer's agent should perform the necessary check to verify if the confidentiality flag has been removed by the ICSDs. If this is the case, take note that the security would therefore be displayed on the ICSDs' websites and is therefore likely already in the public domain.

Deferred or delayed listings of securities

Feedback received from the issuance community in the international markets indicated a need for the ICSDs to also consider treatment of confidential flags for deferred or delayed listings.

Market information provided on this particular listing condition indicates there is often a defined reason for a delayed/deferred listing and this is included in the initial draft documentation. This listing condition is usually agreed with a limited group of investors for the security in question, who seek to keep details of the security removed from the public domain until the defined 'deferred' listing date has been met.

The ICSDs will apply the same procedure as defined for unlisted securities i.e. remove the confidentiality flag on the security on the 15th of the month following the month of issuance, unless informed by the Lead Manager or Issuer Agent to keep the security confidential for a longer period.

Note: For a security to qualify for this procedure, the intention to 'defer' the listing must be clearly indicated to the ICSDs at the time of creation of the security in the ICSDs' databases.



Treatment of securities created through the EPIM (European Pre-Issuance Messaging) system

The existing EPIM message layouts (which are also applicable to the EPIM Workstation) include fields that allow the user to request a security be flagged as confidential within the ICSDs' systems and vis-à-vis third parties and to advise if the security will be listed.

Amendments to details of any security initially created through the EPIM platform should also be processed via EPIM (up to the day prior to closing date). For any updates to the confidentiality or listing attributes on closing date or post-issuance, the ICSD contacts noted above in the 'Unlisted Securities' section should be utilised.



APPENDIX A – EMAIL TEMPLATE TO SEND TO THE ICSDs

(Please note that requests must be provided to both ICSDs prior to the 15th calendar day of the month following the issue date of the security.)

(If multiple requests need to be provided the ICSDs will accept the required information in an excel file format detailing the reason for each request.)

SUBJECT: Maintenance of confidential status after issue date for unlisted securities – Name of agent/requesting entity

Requestor: [Insert Issuer Agent/Lead Manager details]

ISIN:

Common Code:

Issuer name:

Issue date (closing date):

Programme number (if applicable):

Security is unlisted: YES/NO

Reason confidential status is required post-issuance:

[_____]*

**Examples such as Issue subject to deferred listing, Issue is a private placement etc.*

Duration of confidential status (please select one option):

- a) Indefinitely (until maturity)
- b) Until such time the Issuer's Agent notifies the ICSDs that confidentiality should be removed**

*(**Such notifications must be provided via email to newissues@euroclear.com and OSS.Securities.data@clearstream.com at the time confidentiality is to be removed)*