

# Bird & Bird & Capital Markets Group: PLC Update

April 2018

## *Pre-Emption Group expectations regarding share disapplication thresholds*

When the new Prospectus Regulation came into force in July 2017, it increased the threshold for the exemption from the obligation to publish a prospectus in respect of an increase in securities admitted to trading from up to 10% to up to 20%. In spite of the increased threshold, the Pre-Emption Group has confirmed that it will not relax its own requirements; accordingly, there is no change to the flexibility permitted by the Pre-Emption Group's 2015 Statement of Principles as a consequence of the Prospectus Regulation. The Group continues to support the overall limit contained in the Statement of Principles, whereby a company may seek authority by special resolution to issue non-pre-emptively for cash equity securities representing:

- no more than 5% of issued ordinary share capital in any one year, whether or not in connection with an acquisition or specified capital investment; and
- no more than an additional 5% of issued ordinary share capital provided that, in the circular for the Annual General Meeting at which such additional authority is to be sought, the company confirms that it intends to use it only in connection with an acquisition or specified capital investment which is announced contemporaneously with the issue, or which has taken place in the preceding six-month period and is disclosed in the announcement of the issue.

The Pre-emption Group notes that whilst decisions about specific placings are a matter for individual shareholders, the Statement of Principles reflects a generally agreed position supported by the Investment Association and Pensions and Lifetime Savings Association. To assist in a constructive discussion between companies and shareholders, companies should be mindful of the expectations included within the Statement of Principles.

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