

Comparison of Debt Financing Alternatives

Oftentimes, a domestic (U.S.) or foreign (non-U.S.-domiciled) entity, including a bank or bank holding company, may consider its funding alternatives, including the issuance of debt securities to U.S. investors. In the below chart we summarize some of the principal features and considerations to be taken into account when choosing among issuing debt securities pursuant to a registration statement, in reliance on the Section 3(a)(2) exemption for bank-issued securities, and in reliance on Rule 144A in a traditional Rule 144A offering involving an initial purchaser.

	SEC REGISTERED	SECTION 3(a)(2)	RULE 144A
REQUIRED ISSUER:	No specific issuer or guarantor is required.	Need a U.S. state or federal licensed bank as issuer or as guarantor.	No specific issuer or guarantor is required.
EXEMPTION FROM THE SECURITIES ACT:	No. Bonds are publicly offered and registered with the SEC.	Section 3(a)(2) exemption.	Section 4(a)(2) / Rule 144A.
FINRA FILING REQUIREMENT:	Filing requirement and payment of filing fee.	Filing requirement and payment of filing fee.	Not subject to FINRA filing.
BLUE SKY:	Generally exempt from blue sky regulation.	Generally exempt from blue sky regulation.	Generally exempt from blue sky regulation.
LISTING ON AN EXCHANGE:	May be listed if desired.	May be listed if issued in compliance with Part 16.6 of the OCC registration rules.	Not in the United States, but may be listed on UKLA or other European exchange.
"RESTRICTED SECURITY":	No.	No.	Yes.
REQUIRED GOVERNMENTAL APPROVALS:	SEC filing and registration fee.	Banks licensed by the OCC are subject to the Part 16.6 limitations, unless another exemption is available.	Generally none.
PERMITTED OFFEREES:	All investors.	All investors. However, banks licensed by the OCC are subject to the Part 16.6 limitations, unless an exemption is available. Generally, sales are limited to "accredited investors."	Only to QIBs. No retail.
RESALE RESTRICTIONS:	None.	None.	Only to QIBs. No retail.
INVESTMENT RESTRICTIONS:	None.	Generally none.	Restricted securities; some investors are subject to limitations on amounts invested in restricted securities.
MINIMUM DENOMINATIONS:	All denominations.	All denominations. However, banks licensed by the OCC are subject to a minimum denomination requirement.	Typically \$100,000 or more.
ROLE OF MANAGER/ UNDERWRITER:	Either agented or principal basis.	Either agented or principal basis.	Must purchase as principal.
SETTLEMENT:	Through DTC, Euroclear/Clearstream.	Through DTC, Euroclear/Clearstream.	Through DTC, Euroclear/Clearstream.
REPATRIATION OF PROCEEDS:	No restrictions.	May be restrictions.	No restrictions.
ELIGIBLE FOR INCLUSION IN BOND INDEX:	Yes.	Yes.	No.
ORPHAN BONDS:	No.	Not fungible with 144A bonds or SEC-registered bonds.	Not fungible with 3(a)(2) bonds or SEC-registered bonds.
PROSPECTUS COMPATIBILITY:	May be different from UKLA prospectus.	Similar to UKLA prospectus, but with a wrapper for branch/agency guarantee.	Similar to UKLA prospectus, but with tax and offering and transfer restriction disclosure.

Structure of Rule 144A/ Rule 3(a)(2) Offering Memorandum

OFFERING MEMORANDUM	DESCRIPTION
SUMMARY	<ul style="list-style-type: none"> • Summary of issuing entity and the notes issuance
SELECTED FINANCIAL DATA	<ul style="list-style-type: none"> • Selected financial information (2 years balance sheet and 3 years income statement) • Unaudited interim financials for the “stub” period covering the time period since the end of last fiscal year with comparative financials for the prior year
RISK FACTORS	<ul style="list-style-type: none"> • Disclose risks related to: <ul style="list-style-type: none"> – Issuer’s business (performance, business risks, business trends, etc.) – Industry (sector consolidation, acquisitions and business integrations) – Notes/general market (secondary bond market, interest rate risks, exchange rate risks and exchange control)
USE OF PROCEEDS	<ul style="list-style-type: none"> • Examples include general corporate purposes, repayment of debt, acquisitions, etc.
CAPITALIZATION TABLE	<ul style="list-style-type: none"> • Summary of company’s capitalization
DESCRIPTION OF BUSINESS	<ul style="list-style-type: none"> • Principal products and services offered • Characteristics of industry that may have material impact on future financial performance • Any recent developments <ul style="list-style-type: none"> – Material pending legal proceedings and governmental actions – Material reclassification, merger or consolidation or changes in mode of conducting business • Description of US branch (limited disclosure; location, size, incorporation, regulator, no FDIC insurance) • For a guarantee vs. direct issue structure, docs will include a description of the guarantee
MANAGEMENT DISCUSSION AND ANALYSIS	<ul style="list-style-type: none"> • The “Management’s Discussion and Analysis of Financial Condition and Results of Operation” section is a detailed discussion of the issuer’s financial condition and a comparison of the key line items in the income statement and balance sheet for the last three years and, if appropriate, for interim financials. Comparison of year over year changes plus explanatory reasons.
MANAGEMENT	<ul style="list-style-type: none"> • Directors and officers
DESCRIPTION OF NOTES	<ul style="list-style-type: none"> • Description of securities, including applicable covenants
FINANCIAL STATEMENTS	<ul style="list-style-type: none"> • Provide audited financial statements for most recent three years attached to the Offering Memorandum as F-pages • Unaudited interim financials, if appropriate
OTHER SECTIONS	<ul style="list-style-type: none"> • Cover page and related conventional following pages • Governing law and income tax considerations • Plan of Distribution • Transfer restrictions for the offered securities • Legal matters • Auditor