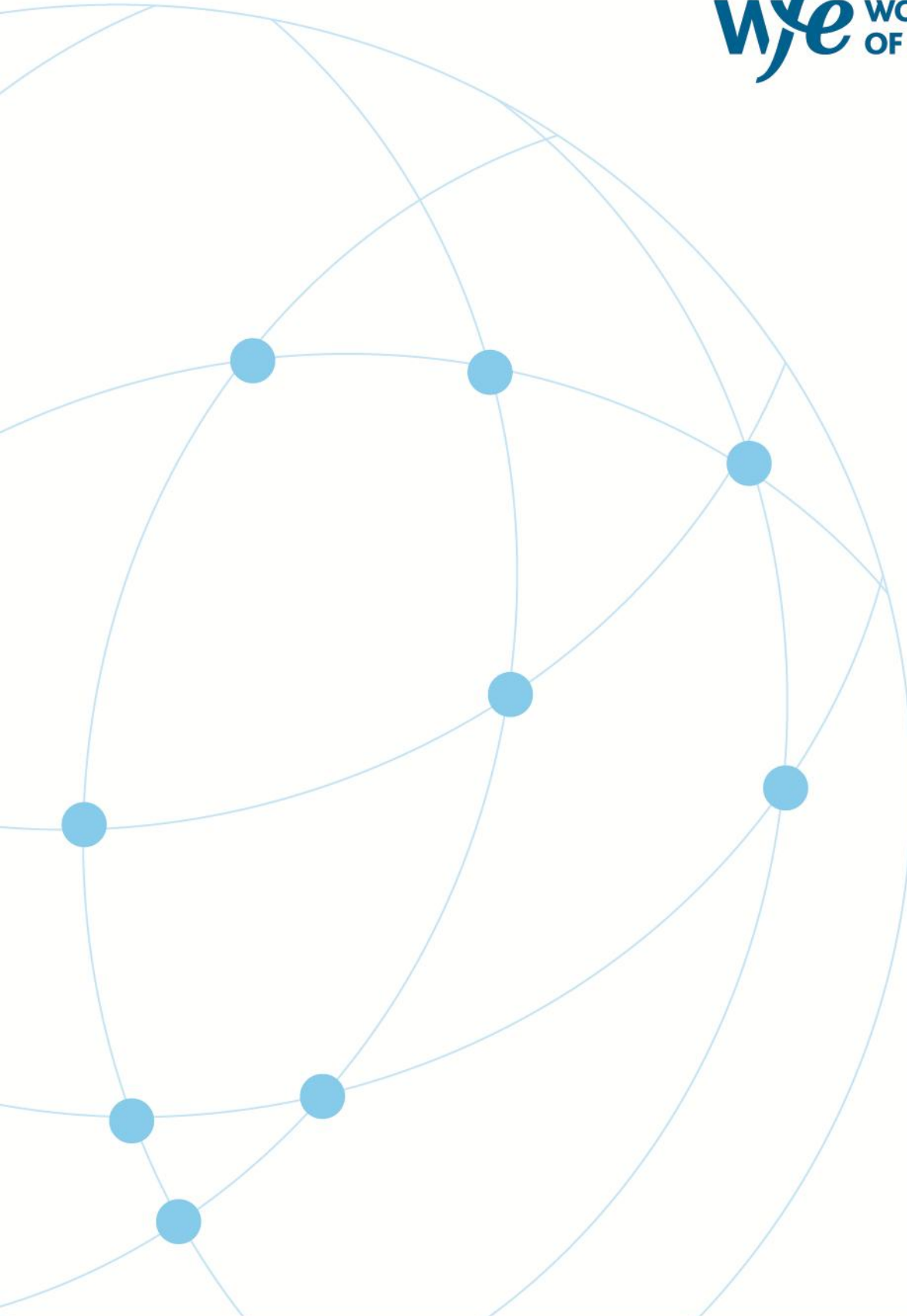




**WFE Response to SEC Concept Release on Foreign Private
Issuer Eligibility
September 2025**

General Comments:

The WFE supports the SEC's determination to ensure that listed companies, including those with Foreign Private Issuer status, continue to adhere to robust listing standards that protect investors and market integrity.

Following on from the SEC's Concept Release on possible amendments to the definition of Foreign Private Issuer (FPI) under US securities law, this response considers the SEC proposals and how to ensure that investors are provided with the information that they need without unduly narrowing the range of companies able to qualify for FPI status.

Due to the accommodations and exemptions granted to FPIs, as well as the growing number of FPIs in the US, the WFE understands the need to take stock of the FPI landscape and whether the eligibility criteria remain fit for purpose. Key factors in how the SEC should proceed will be 1) whether the change in FPI population has, in fact, exposed investors to significant harm, and 2) whether the existing FPI criteria adequately ensure that FPIs meet the standards expected of companies trading in the US.

Before determining what, if any, regulatory changes should be pursued in this space, the WFE would urge the SEC to undertake a careful assessment of the current situation and publish a detailed cost-benefit analysis of any harms identified as well as the predicted benefits of proposed regulatory changes. As part of its assessment, the SEC should consider not only US regulation and securities law but also what listing rules exchanges already have in place. US exchanges have implemented rigorous listing standards and act as front-line assessors for listed companies, including foreign issuers, and so it is worth considering whether those standards mitigate or address the concerns identified.

If the SEC does decide to pursue regulatory change, the SEC should take care to ensure that proposed amendments are appropriately calibrated and targeted to address any specific issues and subsets of the FPI population identified as posing harm. The SEC should also seek to align any proposals with existing standards and definitions that have been designed to operate globally and maximise international access, such as the WFE Membership Criteria for exchanges. These steps will mitigate the risk of introducing broad amendments to the FPI regime that could reshape cross-listing incentives, liquidity distribution, data/reporting obligations, and access to US markets.

Proposed Changes to FPI Criteria

The Concept Release posits a range of possible approaches to amending the criteria for FPI status to ensure that FPIs adhere to standards on good governance, investor protection and disclosure.

One of the proposals is to introduce criteria requiring FPIs to have an active listing on a 'major foreign exchange', where the criteria for what counts as a major foreign exchange include total market size.

The WFE cautions against an exchange's total market size being one of the relevant criteria. Market size does not inherently equate to the presence of robust disclosure, listing or regulatory requirements. Basing FPI criteria on asset and/or market size could also restrict access to US markets for early-stage growth companies that do not pose significant governance or investor protection risks (because they are subject to rigorous listing standards and regulation in their home country).

FPI eligibility should, instead, be centred on whether a company will meet the high standards expected of companies trading in the US by virtue of its home-country listing and regulatory requirements. Qualitative assessments of issuers' home-country listing rules and regulations would tackle the core issue at hand, which is ensuring that FPI status does not allow companies that do not adhere to sufficiently robust listing standards to trade in the US. It would also mitigate the risks of unnecessarily limiting FPI status to companies listed on large exchanges or requiring smaller exchanges to pursue separate application and determination processes that could act as a barrier to entry and hamper the competitiveness of the US market in this context.

If the SEC proceeds with a requirement for FPIs to have an active listing on an approved foreign exchange, the WFE urges the SEC to consider granting that approval based on whether the local regulatory regime requires an exchange to subject its issuers to meaningful regulation and oversight, and not market size. This would be consistent with the SEC's proposals on requiring FPIs to be incorporated or headquartered in a jurisdiction that the SEC has determined to have a robust regulatory and oversight framework for issuers, which do not propose criteria related to GDP or market size.

Were the SEC to introduce criteria requiring the exchange itself to subject its issuers to meaningful regulation and oversight, and not market size, reframing the criterion as having an active listing on a 'significant foreign exchange' rather than a 'major foreign exchange' may be more appropriate.

To determine whether a jurisdiction has a robust regulatory and oversight framework for issuers, and requires an exchange to subject its issuers to meaningful regulation and oversight, the SEC should consider as relevant factors whether there is an MoU with the jurisdiction in question, either bilateral or multilateral (e.g. IOSCO's MMoU).

In developing a framework for determining whether an issuer is subject to meaningful regulation and oversight in their home country, the WFE would additionally urge the SEC to consider the WFE Membership Criteria and exchange membership of the WFE, which is based on robust membership criteria and a rigorous application process. Further detail on the WFE Membership Criteria and why they are particularly appropriate in this context are outlined in the section below.

WFE Membership Criteria

The WFE Membership Criteria offer a framework for a principles-based approach to determining whether an exchange subjects its issuers to meaningful regulation and oversight. Requirements aligned with the WFE Membership Criteria could substantively assess exchanges on their regulation and enforcement without imposing undue burdens on the assessor's resources, addressing concerns expressed by the SEC in the Concept Release.

The WFE Membership Criteria are based on four key principles. The principles are that an exchange should:

1. Be significant within its country of origin (using a relativistic measure of significance that takes into account factors such as the market capitalisation/GDP ratio)
2. Be regulated by a supervisory body, with a statutory framework
3. Operate an active platform for raising initial and secondary capital

4. Pursue purposes that are in the public interest

Each principle is underpinned by specific criteria, a high-level description of which can be found on the [WFE website page on Membership](#). The WFE would be pleased to provide further details on these standards at your convenience.

Background

Established in 1961, the WFE is the global industry association for exchanges and clearing houses. Headquartered in London, it represents the providers of over 250 pieces of market infrastructure, including standalone CCPs that are not part of exchange groups. Of our members, 36% are in Asia Pacific, 43% in EMEA and 21% in the Americas. The WFE's 87 member CCPs and clearing services collectively ensure that risk takers post some \$1.3 trillion (equivalent) of resources to back their positions, in the form of initial margin and default fund requirements. The exchanges covered by WFE data are home to over 55,000 listed companies, and the market capitalization of these entities is over \$111tr; around \$124tr in trading annually passes through WFE members (at end-2023).

The WFE is the definitive source for exchange-traded statistics and publishes over 350 market data indicators. Its free statistics database stretches back more than 40 years and provides information and insight into developments on global exchanges. The WFE works with standard-setters, policy makers, regulators and government organisations around the world to support and promote the development of fair, transparent, stable and efficient markets. The WFE shares regulatory authorities' goals of ensuring the safety and soundness of the global financial system.

With extensive experience of developing and enforcing high standards of conduct, the WFE and its members support an orderly, secure, fair and transparent environment for investors; for companies that raise capital; and for all who deal with financial risk. We seek outcomes that maximise the common good, consumer confidence and economic growth. And we engage with policy makers and regulators in an open, collaborative way, reflecting the central, public role that exchanges and CCPs play in a globally integrated financial system.

Website: www.world-exchanges.org

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If you have any further questions, or wish to follow-up on our contribution, the WFE remains at your disposal. Please contact:

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