

## II

*(Acts whose publication is not obligatory)*

## COUNCIL

## COUNCIL DIRECTIVE

of 5 March 1979

coordinating the conditions for the admission of securities to official stock exchange listing

(79/279/EEC)

THE COUNCIL OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Economic Community, and in particular Articles 54 (3) (g) and 100 thereof,

Having regard to the proposal from the Commission<sup>(1)</sup>,

Having regard to the opinion of the European Parliament<sup>(2)</sup>,

Having regard to the opinion of the Economic and Social Committee<sup>(3)</sup>,

Whereas the coordination of the conditions for the admission of securities to official listing on stock exchanges situated or operating in the Member States is likely to provide equivalent protection for investors at Community level, because of the more uniform guarantees offered to investors in the various Member States; whereas it will facilitate both the admission to official stock exchange listing, in each such State, of securities from other Member States and the listing of any given security on a number of stock exchanges in the Community; whereas it will accordingly make for greater interpenetration of national securities markets and therefore contribute to the prospect of establishing a European capital market;

Whereas such coordination must therefore apply to securities, independently of the legal status of their issuers, and must therefore also apply to securities

issued by non-member States or their regional or local authorities or international public bodies; whereas this Directive therefore covers entities not covered by the second paragraph of Article 58 of the Treaty and goes beyond the scope of Article 54 (3) (g) while directly affecting the establishment and functioning of the common market within the meaning of Article 100;

Whereas there should be the possibility of a right to apply to the courts against decisions by the competent national authorities in respect of the application of this Directive, although such right to apply must not be allowed to restrict the discretion of these authorities;

Whereas, initially, this coordination should be sufficiently flexible to enable account to be taken of present differences in the structures of securities markets in the Member States and to enable the Member States to take account of any specific situations with which they may be confronted;

Whereas, for this reason, coordination should first be limited to the establishment of minimum conditions for the admission of securities to official listing on stock exchanges situated or operating in the Member States, without however giving issuers any right to listing;

Whereas, this partial coordination of the conditions for admission to official listing constitutes a first step towards subsequent closer alignment of the rules of Member States in this field,

<sup>(1)</sup> OJ No C 56, 10. 3. 1976, p. 3.

<sup>(2)</sup> OJ No C 238, 11. 10. 1976, p. 38.

<sup>(3)</sup> OJ No C 204, 30. 8. 1976, p. 5.

HAS ADOPTED THIS DIRECTIVE :

## SECTION I

### General provisions

#### Article 1

1. This Directive concerns securities which are admitted to official listing or are the subject of an application for admission to official listing on a stock exchange situated or operating within a Member State.
2. Member States may decide not to apply this Directive to :
  - units issued by collective investment undertakings other than the closed-end type,
  - securities issued by a Member State or its regional or local authorities.

#### Article 2

For the purposes of applying this Directive :

- (a) collective investment undertakings other than the closed-end type shall mean unit trusts and investment companies :
  - the object of which is the collective investment of capital provided by the public, and which operate on the principle of risk spreading, and
  - the units of which are, at the request of holders, repurchased or redeemed, directly or indirectly, out of the assets of these undertakings. Action taken by such undertakings to ensure that the stock exchange value of its units does not significantly vary from their net asset value shall be regarded as equivalent to such repurchase or redemption ;
- (b) units shall mean securities issued by collective investment undertakings as representing the rights of participants in the assets of such undertakings ;
- (c) European unit of account shall mean the unit of account as defined in Article 10 of the Financial Regulation of 21 December 1977 applicable to the general budget of the European Communities <sup>(1)</sup>.

#### Article 3

Member States shall ensure that :

- securities may not be admitted to official listing on any stock exchange situated or operating within their territory unless the conditions laid down by this Directive are satisfied, and that

- issuers of securities admitted to such official listing, whether admission takes place before or after the date on which this Directive is implemented, are subject to the obligations provided for by this Directive.

#### Article 4

1. The admission of securities to official listing shall be subject to the conditions set out in Schedules A and B to this Directive, relating to shares and debt securities respectively.
2. The issuers of securities admitted to official listing must fulfil the obligations set out in Schedules C and D to this Directive, relating to shares and debt securities respectively.
3. Certificates representing shares may be admitted to official listing only if the issuer of the shares represented fulfils the conditions set out in I (1) to I (3) of Schedule A and the obligations set out in Schedule C and if the certificates fulfil the conditions set out in II (1) to II (6) of Schedule A.

#### Article 5

1. Subject to the prohibitions provided for in Article 6 and in Schedules A and B, the Member States may make the admission of securities to official listing subject to more stringent conditions than those set out in Schedules A and B or to additional conditions, provided that these more stringent and additional conditions apply generally for all issuers or for individual classes of issuer and that they have been published before application for admission of such securities is made.
2. Member States may make the issuers of securities admitted to official listing subject to more stringent obligations than those set out in Schedules C and D or to additional obligations, provided that these more stringent and additional obligations apply generally for all issuers or for individual classes of issuer.
3. Member States may, under the same conditions as those laid down in Article 7, authorize derogations from the additional or more stringent conditions and obligations referred to in paragraphs 1 and 2 hereof.
4. Member States may, in accordance with the applicable national rules require issuers of securities admitted to official listing to inform the public on a regular basis of their financial position and the general course of their business.

<sup>(1)</sup> OJ No L 356, 31. 12. 1977, p. 1.

*Article 6*

Member States may not make the admission to official listing of securities issued by companies or other legal persons which are nationals of another Member State subject to the condition that the securities must already have been admitted to official listing on a stock exchange situated or operating in one of the Member States.

*Article 7*

Any derogations from the conditions for the admission of securities to official listing which may be authorized in accordance with Schedules A and B must apply generally for all issuers where the circumstances justifying them are similar.

*Article 8*

Member States may decide not to apply the conditions set out in Schedule B and the obligations set out in A (4) (a) and (c) of Schedule D in respect of applications for admission to official listing of debt securities issued by companies and other legal persons which are nationals of a Member State and which are set up by, governed by or managed pursuant to a special law where repayments and interest payments in respect of those securities are guaranteed by a Member State or one of its federal states.

## SECTION II

**Authorities competent to admit securities to official listing***Article 9*

1. Member States shall designate the national authority or authorities competent to decide on the admission of securities to official listing on a stock exchange situated or operating within their territories and shall ensure that this Directive is applied. They shall inform the Commission accordingly, indicating, if appropriate, how duties have been allocated.
2. Member States shall ensure that the competent authorities have such powers as may be necessary for the exercise of their duties.
3. Without prejudice to the other powers conferred upon them, the competent authorities may reject an application for the admission of a security to official listing if, in their opinion, the issuer's situation is such that admission would be detrimental to investors' interests.

*Article 10*

By way of derogation from Article 5, Member States may, solely in the interests of protecting the investors,

give the competent authorities power to make the admission of a security to official listing subject to any special condition which the competent authorities consider appropriate and of which they have explicitly informed the applicant.

*Article 11*

The competent authorities may refuse to admit to official listing a security already officially listed in another Member State where the issuer fails to comply with the obligations resulting from admission in that Member State.

*Article 12*

Without prejudice to any other action or penalties which they may contemplate in the event of failure on the part of the issuer to comply with the obligations resulting from admission to official listing, the competent authorities may make public the fact that an issuer is failing to comply with those obligations.

*Article 13*

1. An issuer whose securities are admitted to official listing shall provide the competent authorities with all the information which the latter consider appropriate in order to protect investors or ensure the smooth operation of the market.
2. Where protection of investors or the smooth operation of the market so requires, an issuer may be required by the competent authorities to publish such information in such a form and within such time limits as they consider appropriate. Should the issuer fail to comply with such requirement, the competent authorities may themselves publish such information after having heard the issuer.

*Article 14*

1. The competent authorities may decide to suspend the listing of a security where the smooth operation of the market is, or may be, temporarily jeopardized or where protection of investors so requires.
2. The competent authorities may decide that the listing of the security be discontinued where they are satisfied that, owing to special circumstances, normal regular dealings in a security are no longer possible.

*Article 15*

1. Member States shall ensure decisions of the competent authorities refusing the admission of a security to official listing or discontinuing such a listing shall be subject to the right to apply to the courts.

2. An applicant shall be notified of a decision regarding his application for admission to official listing within six months of receipt of the application or, should the competent authority require any further information within that period, within six months of the applicant's supplying such information.

3. Failure to give a decision within the time limit specified in paragraph 2 shall be deemed a rejection of the application. Such rejection shall give rise to the right to apply to the courts provided for in paragraph 1.

#### *Article 16*

Where an application for admission to official listing relates to certificates representing shares, the application shall be considered only if the competent authorities are of the opinion that the issuer of the certificates is offering adequate safeguards for the protection of investors.

### SECTION III

#### **Publication of the information to be made available to the public**

#### *Article 17*

1. The information which issuers of a security admitted to official listing in a Member State are required to make available to the public in accordance with the requirements of Schedules C and D shall be published in one or more newspapers distributed throughout the Member State or distributed widely therein or shall be made available to the public either in writing in places indicated by announcements to be published in one or more newspapers distributed throughout the Member State or widely distributed therein or by other equivalent means approved by the competent authorities. The issuers must simultaneously send such information to the competent authorities.

2. The information referred to in paragraph 1 shall be published in the official language or languages, or in one of the official languages or in another language provided that in the Member State in question the official language or languages or such other language is or are customary in the sphere of finance and accepted by the competent authorities.

### SECTION IV

#### **Cooperation between Member States**

#### *Article 18*

1. The competent authorities shall cooperate wherever necessary for the purpose of carrying out

their duties and shall exchange any information required for that purpose.

2. Where applications are to be made simultaneously or within short intervals of one another for admission of the same securities to official listing on stock exchanges situated or operating in more than one Member State, or where an application for admission is made in respect of a security already listed on a stock exchange in another Member State, the competent authorities shall communicate with each other and make such arrangements as may be necessary to expedite the procedure and simplify as far as possible the formalities and any additional conditions required for admission of the security concerned.

3. In order to facilitate the work of the competent authorities, any application for the admission of a security to official listing on a stock exchange situated or operating in a Member State must state whether a similar application is being or has been made in another Member State, or will be made in the near future.

#### *Article 19*

1. Member States shall provide that all persons employed or formerly employed by the competent authorities shall be bound by professional secrecy. This means that any confidential information received in the course of their duties may not be divulged to any person or authority except by virtue of provisions laid down by law.

2. Paragraph 1 shall not, however, preclude the competent authorities of the various Member States from exchanging information as provided for in this Directive. Information thus exchanged shall be covered by the obligation of professional secrecy to which the persons employed or formerly employed by the competent authorities receiving the information are subject.

### SECTION V

#### **Contact Committee**

#### *Article 20*

1. A Contact Committee (hereinafter called 'the Committee') shall be set up alongside the Commission. Its function shall be:

- (a) without prejudice to Articles 169 and 170 of the EEC Treaty to facilitate the harmonized implementation of this Directive through regular consultations on any practical problems arising from its application and on which exchanges of view are deemed useful;

- (b) to facilitate the establishment of a concerted attitude between the Member States on the more stringent or additional conditions and obligations which, pursuant to Article 5 of this Directive, they may lay down at national level ;
- (c) to advise the Commission, if necessary, on any supplements or amendments to be made to this Directive or on any adjustments to be made in accordance with Article 21.

2. It shall not be the function of the Committee to appraise the merits of decisions taken by the competent authorities in individual cases.

3. The Committee shall be composed of persons appointed by the Member States and of representatives of the Commission. The chairman shall be a representative of the Commission. Secretarial services shall be provided by the Commission.

4. Meetings of the Committee shall be convened by its chairman, either on his own initiative or at the request of one Member State delegation. The Committee shall draw up its rules of procedure.

#### *Article 21*

1. For the purpose of adjusting, in the light of the requirements of the economic situation, the minimum amount of the foreseeable market capitalization laid down in the first paragraph of I (2) of Schedule A, the Commission shall submit to the Committee a draft of the measures to be taken. The Committee shall deliver its opinion within the period laid down by its chairman. Its decisions shall require 41 votes in favour, the votes of the Member States being weighted as provided for in Article 148 (2) of the Treaty.

2. When the Committee has delivered an opinion in favour of the draft of the measures envisaged by the Commission the latter shall adopt them.

Where the opinion of the Committee is not in accordance with the draft of the measures envisaged by the Commission or where the Committee has not deliv-

ered an opinion within the required period, the Commission shall without delay lay before the Council, which shall act by qualified majority, a proposal concerning the measures to be taken.

Where the Council fails to act on the proposal within three months of its receipt, the measures proposed shall be adopted by the Commission.

## SECTION VI

### Final provisions

#### *Article 22*

1. Member States shall take the measures necessary to comply with this Directive within two years of its notification. They shall forthwith inform the Commission thereof.

This period shall be extended by one year in the case of Member States simultaneously introducing this Directive and the proposed Council Directive on the particulars to be published when securities issued by companies within the meaning of the second paragraph of Article 58 of the Treaty are admitted to official stock-exchange listing.

2. As from the notification of this Directive, the Member States shall communicate to the Commission the texts of the main laws, regulations and administrative provisions which they adopt in the field covered by this Directive.

#### *Article 23*

This Directive is addressed to the Member States.

Done at Brussels, 5 March 1979.

*For the Council*

*The President*

J. FRANÇOIS-PONCET

## ANNEX

## SCHEDULE A

**CONDITIONS FOR THE ADMISSION OF SHARES TO OFFICIAL LISTING ON A STOCK EXCHANGE****I. Conditions relating to companies for the shares of which admission to official listing is sought***1. Legal position of the company*

The legal position of the company must be in conformity with the laws and regulations to which it is subject, as regards both its formation and its operation under its statutes.

*2. Minimum size of the company*

The foreseeable market capitalization of the shares for which admission to official listing is sought or, if this cannot be assessed, the company's capital and reserves, including profit or loss, from the last financial year, must be at least one million European units of account.

However, Member States may provide for admission to official listing, even when this condition is not fulfilled, provided that the competent authorities are satisfied that there will be an adequate market for the shares concerned.

A higher foreseeable market capitalization or higher capital and reserves may be required by a Member State for admission to official listing only if another regulated, regularly operating, recognized open market exists in that State and the requirements for it are equal to or less than those referred to in the first paragraph.

The condition set out in the first paragraph shall not be applicable for the admission to official listing of a further block of shares of the same class as those already admitted.

The equivalent in national currency of one million European units of account shall initially be that applicable on the date on which the Directive is adopted.

If, as a result of adjustment of the equivalent of the European unit of account in national currency, the market capitalization expressed in national currency remains for a period of one year at least 10 % more or less than the value of one million European units of account the Member State must, within the 12 months following the expiry of that period, adjust its laws, regulations or administrative provisions to comply with the first paragraph.

*3. A company's period of existence*

A company must have published or filed its annual accounts in accordance with national law for the three financial years preceding the application for official listing. By way of exception, the competent authorities may derogate from this condition where such derogation is desirable in the interests of the company or of investors and where the competent authorities are satisfied that investors have the necessary information available to be able to arrive at an informed judgment on the company and the shares for which admission to official listing is sought.

**II. Conditions relating to the shares for which admission to official listing is sought***1. Legal position of the shares*

The legal position of the shares must be in conformity with the laws and regulations to which they are subject.

*2. Negotiability of the shares*

The shares must be freely negotiable.

The competent authorities may treat shares which are not fully paid up as freely negotiable, if arrangements have been made to ensure that the negotiability of such shares is not restricted and that dealing is made open and proper by providing the public with all appropriate information.

The competent authorities may, in the case of the admission to official listing of shares which may be acquired only subject to approval, derogate from the first paragraph only if the use of the approval clause does not disturb the market.

### 3. *Public issue preceding admission to official listing*

Where public issue precedes admission to official listing, the first listing may be made only after the end of the period during which subscription applications may be submitted.

### 4. *Distribution of shares*

A sufficient number of shares must be distributed to the public in one or more Member States not later than the time of admission.

This condition shall not apply where shares are to be distributed to the public through the stock exchange. In that event, admission to official listing may be granted only if the competent authorities are satisfied that a sufficient number of shares will be distributed through the stock exchange within a short period.

Where admission to official listing is sought for a further block of shares of the same class, the competent authorities may assess whether a sufficient number of shares has been distributed to the public in relation to all the shares issued and not only in relation to this further block.

However, by way of derogation from the first paragraph, if the shares are admitted to official listing in one or more non-Member States, the competent authorities may provide for their admission to official listing if a sufficient number of shares is distributed to the public in the non-Member State or States where they are listed.

A sufficient number of shares shall be deemed to have been distributed either when the shares in respect of which application for admission has been made are in the hands of the public to the extent of a least 25 % of the subscribed capital represented by the class of shares concerned or when, in view of the large number of shares of the same class and the extent of their distribution to the public, the market will operate properly with a lower percentage.

### 5. *Listing of shares of the same class*

The application for admission to official listing must cover all the shares of the same class already issued.

However, Member States may provide that this condition shall not apply to applications for admission not covering all the shares of the same class already issued where the shares of that class for which admission is not sought belong to blocks serving to maintain control of the company or are not negotiable for a certain time under agreements, provided that the public is informed of such situations and that there is no danger of such situations prejudicing the interests of the holders of the shares for which admission to official listing is sought.

### 6. *Physical form of shares*

For the admission to official listing of shares issued by companies which are nationals of another Member State and which shares have a physical form it is necessary and sufficient that their physical form comply with the standards laid down in that other Member State. Where the physical form does not conform to the standards in force in the Member State in which admission to official listing is applied for, the competent authorities of that State shall make that fact known to the public.

The physical form of shares issued by companies which are nationals of a non-member State must afford sufficient safeguard for the protection of the investors.

7. *Shares issued by companies from a non-member State*

If the shares issued by a company which is a national of a non-member State are not listed in either the country of origin or in the country in which the major proportion of the shares is held, they may not be admitted to official listing unless the competent authorities are satisfied that the absence of a listing in the country of origin or in the country in which the major proportion is held is not due to the need to protect investors.

SCHEDULE B

CONDITIONS FOR THE ADMISSION OF DEBT SECURITIES TO OFFICIAL LISTING  
ON A STOCK EXCHANGE

A. ADMISSION TO OFFICIAL LISTING OF DEBT SECURITIES ISSUED BY AN UNDERTAKING

I. Conditions relating to undertakings for the debt securities of which admission to official listing is sought

*Legal position of the undertaking*

The legal position of the undertaking must be in conformity with the laws and regulations to which it is subject, as regards both its formation and its operation under its statutes.

II. Conditions relating to the debt securities for which admission to official listing is sought

1. *Legal position of the debt securities*

The legal position of the debt securities must be in conformity with the laws and regulations to which they are subject.

2. *Negotiability of the debt securities*

The debt securities must be freely negotiable.

The competent authorities may treat debt securities which are not fully paid up as freely negotiable if arrangements have been made to ensure that the negotiability of these debt securities is not restricted and that dealing is made open and proper by providing the public with all appropriate information.

3. *Public issue preceding admission to official listing*

Where public issue precedes admission to official listing, the first listing may be made only after the end of the period during which subscription applications may be submitted. This provision shall not apply in the case of tap issues of debt securities when the closing date for subscription is not fixed.

4. *Listing of debt securities ranking pari passu*

The application for admission to official listing must cover all debt securities ranking *pari passu*.

5. *Physical form of debt securities*

For the admission to official listing of debt securities issued by undertakings which are nationals of another Member State and which debt securities have a physical form, it is necessary and sufficient that their physical form comply with the standards laid down in that other Member State. Where the physical form does not conform to the standards in force in the Member State in which admission to official listing is applied for, the competent authorities of that State shall make that fact known to the public.

However, the physical form of debt securities issued in a single Member State must conform to the standards in force in that State.

The physical form of debt securities issued by undertakings which are nationals of a non-member State must afford sufficient safeguard for the protection of the investors.



### III. Other conditions

#### 1. *Minimum amount of the loan*

The amount of the loan may not be less than 200 000 European units of account. This provision shall not be applicable in the case of tap issues where the amount of the loan is not fixed.

Member States may, however, provide for admission to official listing even when this condition is not fulfilled, where the competent authorities are satisfied that there will be a sufficient market for the debt securities concerned.

The equivalent in national currency of 200 000 European units of account shall initially be that applicable on the date on which this Directive is adopted.

If as a result of adjustment of the equivalent of the European unit of account in national currency the minimum amount of the loan expressed in national currency remains, for a period of one year, at least 10 % less than the value of 200 000 European units of account the Member State must, within the 12 months following the expiry of that period, amend its laws, regulations and administrative provisions to comply with the first paragraph.

#### 2. *Convertible or exchangeable debentures, and debentures with warrants*

Convertible or exchangeable debentures and debentures with warrants may be admitted to official listing only if the related shares are already listed on the same stock exchange or on another regulated, regularly operating, recognized open market or are so admitted simultaneously.

However, Member States may, by way of derogation from the first paragraph, provide for the admission to official listing of convertible or exchangeable debentures or debentures with warrants, if the competent authorities are satisfied that holders have at their disposal all the information necessary to form an opinion concerning the value of the shares to which these debt securities relate.

### B. ADMISSION TO OFFICIAL LISTING OF DEBT SECURITIES ISSUED BY A STATE, ITS REGIONAL OR LOCAL AUTHORITIES OR A PUBLIC INTERNATIONAL BODY

#### 1. *Negotiability of the debt securities*

The debt securities must be freely negotiable.

#### 2. *Public issue preceding admission to official listing*

Where public issue precedes admission to official listing, the first listing may be made only after the end of the period during which subscription applications may be submitted. This provision shall not apply where the closing date for subscription is not fixed.

#### 3. *Listing of debt securities ranking pari passu*

The application for admission to official listing must cover all the securities ranking *pari passu*.

#### 4. *Physical form of debt securities*

For the admission to official listing of debt securities which are issued by a Member State or its regional or local authorities in a physical form, it is necessary and sufficient that such physical form comply with the standards in force in that Member State. Where the physical form does not comply with the standards in force in the Member State where admission to official listing is applied for, the competent authorities of that State shall bring this situation to the attention of the public.

The physical form of debt securities issued by non-member States or their regional or local authorities or by public international bodies must afford sufficient safeguard for the protection of the investors.

## SCHEDULE C

**OBLIGATIONS OF COMPANIES WHOSE SHARES ARE ADMITTED TO OFFICIAL LISTING ON A STOCK EXCHANGE***1. Listing of newly issued shares of the same class*

Without prejudice to the second paragraph of II (5) of Schedule A, in the case of a new public issue of shares of the same class as those already officially listed, the company shall be required, where the new shares are not automatically admitted, to apply for their admission to the same listing, either not more than a year after their issue or when they become freely negotiable.

*2. Treatment of shareholders*

- (a) The company shall ensure equal treatment for all shareholders who are in the same position.
- (b) The company must ensure, at least in each Member State in which its shares are listed, that all the necessary facilities and information are available to enable shareholders to exercise their rights. In particular, it must :
  - inform shareholders of the holding of meetings and enable them to exercise their right to vote,
  - publish notices or distribute circulars concerning the allocation and payment of dividends, the issue of new shares including allotment, subscription, renunciation and conversion arrangements,
  - designate as its agent a financial institution through which shareholders may exercise their financial rights, unless the company itself provides financial services.

*3. Amendment of the instrument of incorporation or the statutes*

- (a) A company planning an amendment to its instrument of incorporation or its statutes must communicate a draft thereof to the competent authorities of the Member States in which its shares are listed.
- (b) That draft must be communicated to the competent authorities no later than the calling of the general meeting which is to decide on the proposed amendment.

*4. Annual accounts and annual report*

- (a) The company must make available to the public, as soon as possible, its most recent annual accounts and its last annual report.
- (b) If the company prepares both annual own and annual consolidated accounts, it must make them available to the public. In that event the competent authorities may authorize the company only to make available to the public either the own or the consolidated accounts, provided that the accounts which are not made available to the public do not contain any significant additional information.
- (c) If the annual accounts and reports do not comply with the provisions of Council Directives concerning companies' accounts and if they do not give a true and fair view of the company's assets and liabilities, financial position and profit or loss, more detailed and/or additional information must be provided.

*5. Additional information*

- (a) The company must inform the public as soon as possible of any major new developments in its sphere of activity which are not public knowledge and which may, by virtue of their effect on its assets and liabilities or financial position or on the general course of its business, lead to substantial movements in the prices of its shares.

The competent authorities may, however, exempt the company from this requirement, if the disclosure of particular information is such as to prejudice the legitimate interests of the company.

- (b) The company must inform the public without delay of any changes in the rights attaching to the various classes of shares.
- (c) The company must inform the public of any changes in the structure (shareholders and breakdown of holdings) of the major holdings in its capital as compared with information previously published on that subject as soon as such changes come to its notice.

#### 6. *Equivalence of information*

- (a) A company whose shares are officially listed on stock exchanges situated or operating in different Member States must ensure that equivalent information is made available to the market at each of these exchanges.
- (b) A company whose shares are officially listed on stock exchanges situated or operating in one or more Member States and in one or more non-member States must make available to the markets of the Member State or States in which its shares are listed information which is at least equivalent to that which it makes available to the markets of the non-member State or States in question, if such information may be of importance for the evaluation of the shares.

### SCHEDULE D

#### OBLIGATIONS OF ISSUERS WHOSE DEBT SECURITIES ARE ADMITTED TO OFFICIAL LISTING ON A STOCK EXCHANGE

##### A. DEBT SECURITIES ISSUED BY AN UNDERTAKING

###### 1. *Treatment of holders of debt securities*

- (a) The undertaking must ensure that all holders of debt securities ranking *pari passu* are given equal treatment in respect of all the rights attaching to those debt securities.

Provided they are made in accordance with national law, this condition shall not prevent offers of early repayment of certain debt securities being made to holders by an undertaking in derogation from the conditions of issue and in particular in accordance with social priorities.

- (b) The undertaking must ensure that at least in each Member State where its debt securities are officially listed all the facilities and information necessary to enable holders to exercise their rights are available. In particular, it must:
  - publish notices or distribute circulars concerning the holding of meetings of holders of debt securities, the payment of interest, the exercise of any conversion, exchange, subscription or renunciation rights, and repayment,
  - designate as its agent a financial institution through which holders of debt securities may exercise their financial rights, unless the undertaking itself provides financial services.

###### 2. *Amendment of the instrument of incorporation or the statutes*

- (a) An undertaking planning an amendment to its instrument of incorporation or its statutes affecting the rights of holders of debt securities must forward a draft thereof to the competent authorities of the Member States in which its debt securities are listed.
- (b) That draft must be communicated to the competent authorities no later than the calling of the meeting of the body which is to decide on the proposed amendment.

###### 3. *Annual accounts and annual report*

- (a) The undertaking must make available to the public as soon as possible its most recent annual accounts and its last annual report the publication of which is required by national law.
- (b) If the undertaking prepares both annual own and annual consolidated accounts, it must make them available to the public. In that event, however, the competent authority may authorize the undertaking only to make available to the public either the own accounts or the consolidated accounts, provided that the accounts which are not made available do not contain any significant additional information.
- (c) If the accounts and reports do not comply with the provisions of Council Directives concerning undertakings' accounts and if they do not give a true and fair view of the undertaking's assets and liabilities, financial position and results, more detailed and/or additional information must be provided.

###### 4. *Additional information*

- (a) The undertaking must inform the public as soon as possible of any major new developments in its sphere of activity which are not public knowledge and which may significantly affect its ability to meet its commitments.

The competent authorities may, however, exempt the undertaking from this obligation at its request if the disclosure of particular information would be such as to prejudice the legitimate interests of the undertaking.

- (b) The undertaking must inform the public without delay of any change in the rights of holders of debt securities resulting in particular from a change in loan terms or in interest rates.
- (c) The undertaking must inform the public without delay of new loan issues and in particular of any guarantee or security in respect thereof.
- (d) Where the debt securities officially listed are convertible or exchangeable debentures, or debentures with warrants, the undertaking must inform the public without delay of any changes in the rights attaching to the various classes of shares to which they relate.

#### 5. *Equivalence of information*

- (a) An undertaking the debt securities of which are officially listed on stock exchanges situated or operating in different Member States must ensure that equivalent information is made available to the market at each of these exchanges.
- (b) An undertaking the debt securities of which are officially listed on stock exchanges situated or operating in one or more Member States and in one or more non-member States must make available to the markets of the Member State or Member States in which its debt securities are listed information which is at least equivalent to that which it makes available to the markets of the non-member State or States in question, if such information may be of importance for the evaluation of the debt securities.

### B. DEBT SECURITIES ISSUED BY A STATE OR ITS REGIONAL OR LOCAL AUTHORITIES OR BY A PUBLIC INTERNATIONAL BODY

#### 1. *Treatment of holders of debt securities*

- (a) States, their regional or local authorities and public international bodies must ensure that all holders of debt securities ranking *pari passu* are given equal treatment in respect of all the rights attaching to those debt securities.

Provided they are made in accordance with national law, this condition shall not prevent offers of early repayment of certain debt securities being made to holders by an issuer in derogation from the conditions of issue and in particular in accordance with social priorities.

- (b) States, their regional or local authorities and public international bodies must ensure that at least in each Member State in which their debt securities are officially listed all the facilities and information necessary to enable holders of debt securities to exercise their rights are available. In particular, they must :
  - publish notices or distribute circulars concerning the holding of meetings of holders of debt securities, the payment of interest and redemption,
  - designate as their agents financial institutions through which holders of debt securities may exercise their financial rights.

#### 2. *Equivalence of information*

- (a) States, their regional or local authorities and public international bodies the debt securities of which are officially listed on stock exchanges situated or operating in different Member States must ensure that equivalent information is made available to the market at each of these exchanges.
- (b) States, their regional or local authorities and public international bodies the debt securities of which are officially listed on stock exchanges situated or operating in one or more Member States and in one or more non-member States must make available to the markets of the Member State or Member States in which their debt securities are listed information which is at least equivalent to that which they make available to the markets of the non-member State or States in question, if such information may be of importance for the evaluation of the debt securities.