

**2019 No. 707**

**EXITING THE EUROPEAN UNION**

**FINANCIAL SERVICES AND MARKETS**

**The Official Listing of Securities, Prospectus and Transparency  
(Amendment etc.) (EU Exit) Regulations 2019**

*Made* - - - - *27th March 2019*

*Coming into force in accordance with regulation 1(2)*

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The Treasury make these Regulations in exercise of the powers conferred by section 8(1) of, and paragraph 21 of Schedule 7 to, the European Union (Withdrawal) Act 2018(a).

In accordance with paragraph 1(1) of Schedule 7 to that Act a draft of this instrument has been laid before Parliament and approved by a resolution of each House of Parliament.

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(a) 2018 c.16.

## PART 1

### General

#### **Citation and commencement**

1.—(1) These Regulations may be cited as the Official Listing of Securities, Prospectus and Transparency (Amendment etc.) (EU Exit) Regulations 2019.

(2) These Regulations come into force on exit day.

#### **Interpretation**

2. In these Regulations—

“FSMA 2000” means the Financial Services and Markets Act 2000(a);

“the FCA” means the Financial Conduct Authority.

## PART 2

### Amendments of primary legislation

#### CHAPTER 1

#### The Financial Services and Markets Act 2000

#### **Introduction**

3. FSMA 2000 is amended as follows.

#### **Part 6 rules**

4. In section 73A (Part 6 rules)(b), omit subsection (5).

#### **Applications for listing**

5. In section 75 (applications for listing), in subsection (6), for “officially listed in another EEA State” substitute “listed in a country or territory outside the United Kingdom”.

#### **Matters which may be dealt with by prospectus rules**

6.—(1) Section 84 (matters which may be dealt with by prospectus rules) is amended as follows.

(2) In subsection (2)(i), omit the words from “or under” to the end.

(3) For subsection (4) substitute—

“(4) Prospectus rules may make provision for the purpose of dealing with matters dealt with in the prospectus directive or with matters that, when the United Kingdom was a member State, would have been matters arising out of or related to a provision of the prospectus directive.”.

(4) Omit subsection (5).

(5) In subsection (6)—

(a) for “non-EEA State” substitute “country or territory outside the United Kingdom”, and

(b) for “that State” substitute “that country or territory”.

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(a) 2008 c. 8.

(b) Inserted by S.I. 2005/381; subsection (5) inserted by S.I. 2005/1433.

## **Prohibition of dealing etc in transferable securities without approved prospectus**

7. In section 85 (prohibition of dealing etc in transferable securities without approved prospectus), in subsection (7), for the words from “competent authority” to the end substitute “FCA”.

## **Exempt offers to the public**

8.—(1) Section 86 (exempt offers to the public)(a) is amended as follows.

(2) In subsection (1)—

- (a) in paragraph (b), for “per EEA State” substitute “in the United Kingdom”;
- (b) in paragraph (e), for “in the EEA States” substitute “in the United Kingdom”.

(3) In subsection (1A)(c), omit “or the competent authority of another EEA State”.

(4) In subsection (1B)—

- (a) in paragraph (a), omit “or the competent authority of another EEA State”;
- (b) in paragraph (b), for “Article 5(4)(b) of the prospectus directive” substitute “rule 2.2.7(2) of the Prospectus Rules sourcebook”.

(5) In subsection (2), for “point (1) of Section I of Annex II to the markets in financial instruments directive” substitute “paragraph 3(a) of Schedule 1 to the markets in financial instruments regulation”(b).

(6) In subsection (7)—

(a) in paragraph (a)—

- (i) for “points (1) to (4) of Section I of Annex II to the markets in financial instruments directive” substitute “paragraph 3 of Schedule 1 to the markets in financial instruments regulation”;
- (ii) for “the final paragraph of Section I of Annex II to that directive” substitute “paragraph 4 of that Schedule”;

(b) in paragraph (b)—

- (i) for “Section II of Annex II to that directive” substitute “paragraphs 5 and 6 of that Schedule”;
- (ii) for “the final paragraph of Section I of Annex II to that directive” substitute “paragraph 4 of that Schedule”;

(c) for paragraph (c) (including the “or” at the end) substitute—

“(c) a person who—

- (i) is an eligible counterparty for the purposes of Section 6 of Chapter 3 of the Conduct of Business sourcebook, and
- (ii) has not, before the making of the offer, agreed in writing with the relevant firm (or each of the relevant firms) to be treated as a non-professional client in accordance with paragraph 4 of Schedule 1 to the markets in financial instruments regulation; or”;

(d) in paragraph (d)(ii) for “may continue to treat as a professional client from 3 January 2018” substitute “was entitled immediately before exit day to continue to treat as a professional client”.

(7) In subsection (8), after “investment firm or” insert “qualifying”.

(8) In subsection (9)—

- (a) after “Investment firms and” insert “qualifying”;

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(a) Section 86 was substituted by S.I. 2005/1433 and subsequently amended, most recently by S.I. 2018/786.

(b) Schedule 1 is inserted by S.I. 2018/1403.

- (b) in paragraph (b), for “directly applicable” substitute “retained direct”.
- (9) After subsection (9) insert—
  - “(9A) In this section—
    - “the Conduct of Business sourcebook” means the Conduct of Business sourcebook made under this Act by the FCA, as it has effect on exit day;
    - “the Prospectus Rules sourcebook” means the Prospectus Rules sourcebook<sup>(a)</sup> made under this Act by the FCA, as it has effect on exit day.”.
- (10) Omit subsection (10).

### **Election to have prospectus**

**9.** In section 87 (election to have prospectus), in subsection (4), omit “where the United Kingdom is the home State in relation to the issuer of the securities”.

### **Criteria for approval of prospectus by FCA**

- 10.**—(1) Section 87A (criteria for approval of prospectus by FCA)<sup>(b)</sup> is amended as follows.
- (2) In subsection (1)—
    - (a) omit paragraph (a);
    - (b) in paragraph (c), for “this Part or the prospectus directive” substitute “qualifying prospectus legislation”.
  - (3) In subsection (2A), omit “EEA”.
  - (4) In subsection (7)(a), omit the words from “and any competent” to “87I”.
  - (5) After subsection (10) insert—
    - “(11) In this Part “qualifying prospectus legislation” means—
      - (a) the provisions of this Part,
      - (b) prospectus rules,
      - (c) any EU regulation, originally made under the prospectus directive, that is retained direct EU legislation,
      - (d) regulations made by the Treasury under regulation 71 of the Official Listing of Securities, Prospectus and Transparency (Amendment etc.) (EU Exit) Regulations 2019 for a purpose specified in paragraphs 3 to 9 of Schedule 2 to those Regulations, and
      - (e) technical standards made by the FCA under regulation 72 of those Regulations for a purpose specified in paragraphs 22 to 30 of that Schedule.”.

### **Procedure for decision on application for approval**

- 11.**—(1) Section 87D (procedure for decision on application for approval) is amended as follows.
- (2) In subsection (1), omit “and ESMA”.
  - (3) Omit subsection (1A).

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(a) Sourcebooks made by the Financial Conduct Authority are available on <https://www.handbook.fca.org.uk/handbook> and copies of the rules referred to can be obtained from the Financial Conduct Authority, 12 Endeavour Square, London E20 1JN, where they are also available for inspection.

(b) Sections 87A to 87R were inserted by S.I. 2005/1433.

### **Repeal of sections 87E and 87F**

12. Omit section 87E (transfer by FCA of application for approval) and section 87F (transfer to FCA of application for approval).

### **Repeal of section 87FB**

13. Omit section 87FB (communication of final terms by FCA)(a).

### **Repeal of sections 87H and 87I**

14. Omit section 87H (prospectus approved in another EEA State) and section 87I (provision of information to host Member State).

### **Power to suspend or prohibit offer to the public**

15. In section 87K (power to suspend or prohibit offer to the public), in subsection (5), for the words from “means” to the end substitute “means a provision of qualifying prospectus legislation applicable in relation to the offer”.

### **Power to suspend or prohibit admission to trading on a regulated market**

16. In section 87L (power to suspend or prohibit admission to trading on a regulated market), in subsection (5), for the words from “means” to the end substitute “means a provision of qualifying prospectus legislation applicable in relation to the admission of the transferable securities to trading on the regulated market in question”.

### **Public censure of issuer**

17. In section 87M (public censure of issuer), in subsection (4), for the words from “means” to the end substitute “means a provision of qualifying prospectus legislation applicable to a prospectus in relation to the transferable securities in question”.

### **Repeal of section 87P**

18. Omit section 87P (exercise of powers at request of competent authority of another EEA State).

### **Transparency rules**

19.—(1) Section 89A (transparency rules)(b) is amended as follows.

(2) For subsection (1) substitute—

“(1) The FCA may make rules—

(a) imposing requirements in relation to the disclosure of periodic or ongoing information about issuers whose securities are admitted to trading on a regulated market, and

(b) dealing with matters arising out of or relating to such requirements.”.

(3) In subsection (2), after “any matters” insert “dealt with in the transparency obligations directive or with any matters that, when the United Kingdom was a member State, would have been matters”.

(4) After subsection (4) insert—

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(a) Inserted by S.I. 2014/3293.

(b) Sections 89A to 89G were inserted by the Companies Act 2006 (c. 46) section 1266(1).

“(4A) The provision that may be made by virtue of subsection (4)(g) includes (but is not limited to) provision, in the case of an issuer whose registered office is situated in a country or territory outside the United Kingdom, allowing exemption from specified provisions of rules under this section if—

- (a) the law of that country or territory is considered by the FCA to lay down equivalent requirements, or
- (b) the issuer complies with the requirements of the law of a country or territory that the FCA considers as equivalent.”.

### **Provision of voteholder information**

**20.**—(1) Section 89B (provision of voteholder information) is amended as follows.

(2) In subsection (4), for the words from “person” to the end substitute “person in accordance with the following provisions”.

(3) In subsection (5), omit “under subsection (4)(b)”.

### **Provision of information by issuers of transferable securities**

**21.**—(1) Section 89C (provision of information by issuers of transferable securities) is amended as follows.

(2) In subsection (2), for paragraphs (a) and (aa) (except the final “and”) substitute—

- “(a) an annual financial report which complies with subsection (5) and with such other requirements as may be specified;
- (aa) in the case of an issuer which is—
  - (i) a mining or quarrying undertaking, or
  - (ii) a logging undertaking,reports complying with specified requirements on payments to governments;”.

(3) In subsections (3) and (4)(a), for “information required by Article 5 of the transparency obligations directive” substitute “a half-yearly financial report which covers the first 6 months of the financial year and complies with subsection (6) and with such other requirements as may be specified”.

(4) After subsection (4) insert—

“(5) An issuer’s annual financial report must include—

- (a) audited financial statements complying with specified requirements,
- (b) a management report complying with specified requirements, and
- (c) statements which—
  - (i) relate to the financial statements and the management report,
  - (ii) are made by the persons responsible within the issuer, and
  - (iii) comply with specified requirements.

(6) An issuer’s half-yearly financial report must include—

- (a) a condensed set of financial statements complying with specified requirements,
- (b) an interim management report complying with specified requirements, and
- (c) statements which—
  - (i) relate to the condensed set of financial statements and the interim management report,
  - (ii) are made by the persons responsible within the issuer, and
  - (iii) comply with specified requirements.



(7) In subsection (2)(aa), “mining or quarrying undertaking”, “logging undertaking”, “payment” and “government” have the same meanings as in the Reports on Payments to Governments Regulations 2014(a).

(8) In this section “specified” means specified in, or referred to in, transparency rules.”.

#### **Notification of voting rights held by issuer**

**22.**—(1) Section 89D (notification of voting rights held by issuer) is amended as follows.

(2) In subsection (1), for the words from “the issuer” to the end substitute “the issuer in accordance with the following provisions”.

(3) In subsection (2), omit “under subsection (1)(b)”.

#### **Transparency rules: interpretation etc**

**23.** In section 89F (transparency rules: interpretation etc), after subsection (1) insert—

“(1A) The FCA must establish, publish and periodically update an indicative list of financial instruments that are subject to notification requirements by virtue of subsection (1)(b)(iii), taking into account developments on financial markets.

(1B) Publication of the indicative list is to be in such manner as the FCA considers appropriate.”.

#### **Public censure of issuer**

**24.**—(1) Section 89K (public censure of issuer)(b) is amended as follows.

(2) In subsection (5), for the words from “under” to the end substitute “under qualifying transparency legislation”.

(3) After subsection (5) insert—

“(5A) In this Part “qualifying transparency legislation” means—

- (a) transparency rules,
- (b) any EU regulation, originally made under the transparency obligations directive, that is retained direct EU legislation,
- (c) regulations made by the Treasury under regulation 71 of the Official Listing of Securities, Prospectus and Transparency (Amendment etc.) (EU Exit) Regulations 2019 for a purpose specified in paragraphs 10 to 20 of Schedule 2 to those Regulations, or
- (d) technical standards made by the FCA under regulation 72 of those Regulations for a purpose specified in paragraphs 31 to 35 of that Schedule.”.

(4) Omit subsection (6).

#### **Power to suspend or prohibit trading of securities**

**25.**—(1) Section 89L (power to suspend or prohibit trading of securities) is amended as follows.

(2) In subsection (3), for the words from “a provision” to “directive” substitute “an applicable transparency obligation”.

(3) In subsection (5), for the words from “under” to the end substitute “under qualifying transparency legislation”.

(4) Omit subsection (6).

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(a) S.I. 2014/3209.

(b) Sections 89K to 89N were inserted by the Companies Act 2006 section 1268.

### **Voting rights suspension orders**

**26.** In section 89NA (voting rights suspension orders)(a), in subsection (11), in the definition of “relevant transparency provision”—

- (a) in paragraph (a), for “implements” substitute “implemented”;
- (b) omit the “or” at the end of paragraph (a);
- (c) for paragraph (b) substitute—
  - “(b) a provision, originally made under any of those Articles, that is retained direct EU legislation,
  - (c) a provision of regulations made by the Treasury under regulation 71 of the Official Listing of Securities, Prospectus and Transparency (Amendment etc.) (EU Exit) Regulations 2019 for a purpose specified in paragraphs 13 to 16 of Schedule 2 to those Regulations, or
  - (d) a provision of technical standards made by the FCA under regulation 72 of those Regulations for a purpose specified in paragraphs 32 to 35 of that Schedule.”.

### **Corporate governance rules**

**27.**—(1) Section 89O (corporate governance rules)(b) is amended as follows.

(2) For subsection (1) substitute—

“(1) The FCA may make rules (“corporate governance rules”) relating to the corporate governance of issuers who have requested or approved admission of their securities to trading on a regulated market.”.

(3) Omit subsections (3) and (4).

### **Storage of regulated information**

**28.**—(1) Section 89W (storage of regulated information)(c) is amended as follows.

(2) In subsection (1), omit the words from “meeting” to the end.

(3) After that subsection insert—

“(1A) The mechanism must comply with minimum quality standards of security, certainty as to the information source, time recording and easy access by end users (see provision made under regulation 71 of the Official Listing of Securities, Prospectus and Transparency (Amendment etc.) (EU Exit) Regulations 2019 for the purpose specified in paragraph 19(b) of Schedule 2 to those Regulations).

(1B) The mechanism must be aligned with the procedure for filing the regulated information with the FCA.”.

(4) For subsection (2) substitute—

“(2) In this section “regulated information” means information which an issuer, or a person who has applied for the admission of securities to trading on a regulated market without the issuer’s consent, is required to disclose under—

- (a) listing rules,
- (b) qualifying transparency legislation, or
- (c) Articles 17 to 19 of the market abuse regulation.”.

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(a) Inserted by S.I. 2015/1755.

(b) Inserted by the Companies Act 2006 section 1269.

(c) Inserted by S.I. 2015/1755.

### **Liability for key investor information**

**29.** In section 90ZA (liability for key investor information)(a), for “implementing” substitute “originally made in implementation of”.

### **Penalties for breach of Part 6 rules**

**30.**—(1) Section 91 (penalties for breach of Part 6 rules) is amended as follows.

(2) In subsection (1A)(b)—

- (a) in paragraph (e), for “the prospectus directive” substitute “qualifying prospectus legislation”;
- (b) for the words from “contravened” to “directive” substitute “contravened a provision of qualifying prospectus legislation”.

(3) In subsection (1B)(a)(i)(c), for the words from “transparency rules” to “directive” substitute “qualifying transparency legislation”.

### **Appointment by FCA of persons to carry out investigations**

**31.** In section 97 (appointment by FCA of persons to carry out investigations), in subsection (1)—

(a) in paragraph (a), for sub-paragraph (ii) substitute—

“(ii) any other provision of qualifying prospectus legislation or qualifying transparency legislation;”;

(b) in paragraph (b), for sub-paragraph (ii) substitute—

“(ii) any other provision of qualifying prospectus legislation or qualifying transparency legislation;”;

(c) in paragraph (ba)(d), for the words from “by that person of” to the end substitute “by that person of qualifying transparency legislation;”.

### **Repeal of section 100A**

**32.** Omit section 100A (exercise of powers where UK is host member state)(e).

### **Meaning of “securities” etc.**

**33.**—(1) Section 102A (meaning of “securities” etc.)(f) is amended as follows.

(2) In subsection (3), for “directive”, in both places where it occurs, substitute “regulation”.

(3) For subsection (3A)(g) substitute—

“(3A) “Debt securities” means bonds or other forms of transferable securitised debts, with the exception of—

- (a) transferable securities which are equivalent to shares, and
- (b) transferable securities which, if converted or if the rights conferred by them are exercised, give rise to a right to acquire—
  - (i) shares, or

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(a) Inserted by S.I. 2011/1613.

(b) Inserted by S.I. 2005/1433.

(c) Subsection (1B) was inserted by the Companies Act 2006 Schedule 15, paragraph 6, and was amended by the Financial Services Act 2012 (c. 21) section 16.

(d) Paragraph (ba) was inserted by S.I. 2015/1755.

(e) Inserted by the Companies Act 2006 section 1271.

(f) Sections 102A to 102C were inserted by S.I. 2005/1433.

(g) Inserted by the Companies Act 2006 Schedule 15, paragraph 10(2).

(ii) transferable securities equivalent to shares.”.

(4) In subsection (4), for the words from “has” to the end substitute “means those instruments specified in Part 1 of Schedule 2 to the Financial Services and Markets Act 2000 (Regulated Activities) Order 2001”(a).

(5) For subsection (5) substitute—

“(5) “Non-equity transferable securities” means all transferable securities that are not equity securities; and for this purpose the following are “equity securities”—

- (a) shares,
- (b) other transferable securities which are equivalent to shares, and
- (c) transferable securities which—
  - (i) are within neither of paragraphs (a) and (b),
  - (ii) give the right to acquire securities within paragraph (a) or (b) if converted or if the rights conferred by them are exercised, and
  - (iii) are issued by the issuer of the underlying shares or by an entity belonging to the group of that issuer.”.

### **Meaning of “offer of transferable securities to the public” etc.**

**34.**—(1) Section 102B (meaning of “offer of transferable securities to the public” etc.) is amended as follows.

(2) In subsection (5)(a), after “a regulated market” insert “, as defined in Article 2(1)(13) of the markets in financial instruments regulation(b)”.

(3) For subsection (6) substitute—

“(6) “Multilateral trading facility” has the same meaning as in the markets in financial instruments regulation (see Article 2(1)(14) of that Regulation)(c).”.

### **Repeal of section 102C**

**35.** Omit section 102C (meaning of “home State” in relation to transferable securities).

### **Interpretation of Part 6 of FSMA 2000**

**36.** In section 103 (interpretation of Part 6), in subsection (1)—

(a) after the definition of “prospectus rules” insert—

““qualifying prospectus legislation” has the meaning given in section 87A(11);

“qualifying transparency legislation” has the meaning given in section 89K(5A);”;

(b) for the definition of “regulated market” substitute—

““regulated market” (except in section 102B and Schedule 10A) means a UK regulated market, as defined in Article 2(1)(13A) of the markets in financial instruments regulation(d);”.

### **Liability of issuers in connection with published information**

**37.**—(1) Schedule 10A (liability of issuers in connection with published information)(e) is amended as follows.

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(a) S.I. 2001/544. Part 1 of Schedule 2 was substituted by S.I. 2006/3384 and amended by S.I. 2017/488.

(b) Article 2(1)(13) is substituted by S.I. 2018/1403.

(c) Article 2(1)(14) is inserted by S.I. 2018/1403.

(d) Article 2(1)(13A) is substituted by S.I. 2018/1403.

(e) Inserted by S.I. 2010/1192.

- (2) In paragraph 1, for sub-paragraph (3) substitute—
- “(3) For the purposes of this Schedule the United Kingdom is the home State of an issuer if—
- (a) the transparency rules impose requirements on the issuer in relation to the securities, or
  - (b) the issuer has its registered office (or, if it does not have a registered office, its head office) in the United Kingdom.”.

(3) In paragraph 2(4)—

    - (a) in paragraph (a)—
      - (i) for “EEA” substitute “United Kingdom”;
      - (ii) for “Article 21 of the transparency obligations directive” substitute “transparency rules”;
    - (b) in paragraph (b)—
      - (i) for “EEA” substitute “United Kingdom”;
      - (ii) for “that directive” substitute “transparency rules”.

(4) In paragraph 8—

    - (a) in sub-paragraph (1)—
      - (i) for paragraph (a) substitute—
 

“(a) “securities” means transferable securities as defined in Article 2(1)(24) of the markets in financial instruments regulation, other than money market instruments as defined in Article 2(1)(25A) of that regulation that have a maturity of less than 12 months (and includes instruments outside the United Kingdom);”(a)
      - (ii) in paragraph (b), for sub-paragraphs (i) to (iii) substitute—
 

“(i) a regulated market as defined in Article 2(1)(13) of the markets in financial instruments regulation, or

(ii) a multilateral trading facility as defined in Article 2(1)(14) of that regulation.”
    - (b) omit sub-paragraph (6)(b).

**Transferable securities excluded from certain provisions of section 85 of FSMA 2000**

- 38.**—(1) Schedule 11A (transferable securities)(b) is amended as follows.
- (2) In paragraph 2—
- (a) in paragraphs (a) and (b), for “an EEA State” substitute “any country or territory”;
  - (b) in paragraphs (c) and (e), for “an EEA State” substitute “any State”.
- (3) In paragraph 3, for “an EEA State” substitute “any State”.
- (4) In paragraph 4, for “an EEA State” substitute “any country or territory”.
- (5) In paragraph 5—
- (a) for the words from “a deposit” to the end substitute “the compensation scheme”;
  - (b) after sub-paragraph (2) insert—
 

“(3) “Credit institution” means a credit institution as defined in Article 4(1)(1) of the capital requirements regulation.”
- (6) In paragraph 7, omit sub-paragraph (2)(e).
- (7) In paragraph 8, in sub-paragraph (2)(a), for “the EEA States” substitute “the United Kingdom”.

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(a) Articles 1(1)(24) and (25A) are substituted by S.I. 2018/1403.  
 (b) Inserted by S.I. 2005/1433.

(8) In paragraph 9(1), for “the EEA States” substitute “the United Kingdom”.

## CHAPTER 2

### The Companies Act 2006

#### **Repeal of section 1273 of the Companies Act 2006**

**39.** Omit section 1273 of the Companies Act 2006<sup>(a)</sup> (corporate governance regulations).

## PART 3

### Amendments of EU Regulations and EU Decision

#### CHAPTER 1

##### Amendments of Commission Regulation (EC) No. 809/2004

#### **Introduction**

**40.** Commission Regulation (EC) No 809/2004 of 29 April 2004 implementing Directive 2003/71/EC of the European Parliament and of the Council as regards information contained in prospectuses as well as the format, incorporation by reference and publication of such prospectuses and dissemination of advertisements is amended as follows.

#### **Subject-matter of Regulation**

**41.** In Article 1 (subject-matter)—

- (a) in point (1), for “Article 5 of Directive 2003/71/EC” substitute “section 87A of FSMA 2000”;
- (b) in point (2), for “provided for in Article 7 of Directive 2003/71/EC” substitute “for the purposes of that section”;
- (c) in point (4), for “Article 11 of Directive 2003/71/EC” substitute “Section 4 of Chapter 2 of the Prospectus Rules sourcebook”.

#### **Definitions**

**42.**—(1) Article 2 (definitions) is amended as follows.

(2) In the opening words, omit “in addition to those laid down in Directive 2003/71/EC”.

(3) Before point (1) insert—

“A1. “the FCA” means the Financial Conduct Authority;

A2. “FSMA 2000” means the Financial Services and Markets Act 2000;

A3. “the Prospectus Rules sourcebook” means the Prospectus Rules sourcebook made under FSMA 2000 by the FCA, as it has effect on exit day;

A4. “securities” means transferable securities as defined by Article 2(1)(24) of Regulation (EU) No. 600/2014 with the exception of money market instruments as defined by Article 2(1)(25A) of that Regulation having a maturity of less than 12 months;

A5. “equity securities” means shares and other transferable securities equivalent to shares in companies, as well as any other type of transferable securities giving the right to acquire any such shares or other transferable securities as a consequence of their being converted or

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(a) 2006 c. 46.

the rights conferred by them being exercised, provided that securities of the latter type are issued by the issuer of the underlying shares or by an entity belonging to the group of that issuer;

A6. “non-equity securities” means all securities that are not equity securities;

A7. “offer of securities to the public” means a communication to persons in any form and by any means, presenting sufficient information on the terms of the offer and the securities to be offered, so as to enable an investor to decide to purchase or subscribe to these securities. This definition is also applicable to the placing of securities through financial intermediaries;

A8. “small and medium-sized enterprises” means companies which, according to their last annual or consolidated accounts, meet at least two of the following three criteria: an average number of employees during the financial year of less than 250, a total balance sheet not exceeding 43,000,000 euros and an annual net turnover not exceeding 50,000,000 euros;

A9. “credit institution” means an undertaking the business of which is to take deposits or other repayable funds from the public and to grant credits for its own account;

A10. “issuer” means a legal entity which issues or proposes to issue securities;

A12. “person making an offer” (or “offeror”) means a legal entity or individual which offers securities to the public;

A13. “regulated market” has the meaning given in section 103(1) of FSMA 2000;

A14. “base prospectus” means a prospectus that, alone or with a supplementary prospectus, contains all the necessary information concerning the issuer and the securities to be offered to the public or admitted to trading and, at the choice of the issuer, the final terms of the offering; and for the purposes of this definition “the necessary information” has the same meaning as in section 87A of FSMA 2000;

A15. “key information” has the same meaning as in section 87A of FSMA 2000;

A16. “company with reduced market capitalisation” means a company listed on a regulated market that had an average market capitalisation of less than 10,000,000 euros on the basis of end-year quotes for the previous three calendar years;

A17. “UK accounting standards” means accounting standards as defined by section 464 of the Companies Act 2006;

A18. “UK-adopted international accounting standards” has the meaning given by section 474(1) of the Companies Act 2006(a).”.

(4) In point (8), for “Member” substitute “sovereign”.

(5) In point (12), for the words from “Directive 2001/34/EC” to the end substitute “listing rules, as defined by section 73A(2) of FSMA 2000, or under Article 7 of the market abuse regulation, as defined by section 417(1) of FSMA 2000, and includes information that immediately before exit day was “regulated information” for the purposes of this Regulation”.

(6) In point (13)(e), for “Article 29(3) of Council Directive 77/91/EEC” substitute “section 562 of the Companies Act 2006(b)”.

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(a) 2006 c. 46; the definition is inserted in section 474(1) by paragraph 21 of Schedule 1 to S.I. 2019/685 The International Accounting Standards and European Public Limited-Liability Company (Amendment etc.) (EU Exit) Regulations.

(b) Section 562 is amended by S.I. 2009/2022.

### **Categories of information in the base prospectus and the final terms**

43. In Article 2a (categories of information in the base prospectus and the final terms)(a), in paragraph 2, for “Article 16(1) of Directive 2003/71/EC” substitute “section 87G of FSMA 2000”.

### **Minimum information to be included in a prospectus**

44. In Article 3 (minimum information to be included in a prospectus)—

- (a) in the second paragraph, for “a competent authority” substitute “the FCA”;
- (b) in the third paragraph—
  - (i) for the words from the beginning to “Member State” substitute “The FCA”;
  - (ii) for “Article 13 of that Directive” substitute “section 85 of FSMA 2000”;
- (c) in the fourth paragraph—
  - (i) for the words from “Article 5(2)” to “Member State,” substitute “section 87A(5) of FSMA 2000, the FCA,”;
  - (ii) for “Article 13 of that Directive” substitute “section 85 of that Act”.

### **Share registration document schedule**

45. In Article 4 (share registration document schedule), in paragraph 2(2)(b), for “Community” substitute “United Kingdom”.

### **Share registration document in cases of complex financial history or significant financial commitment**

46.—(1) Article 4a (share registration document in cases of complex financial history or significant financial commitment)(b) is amended as follows.

(2) In paragraph 1, in the first subparagraph—

- (a) for “Article 5(1) of Directive 2003/71/EC” substitute “section 87A(1)(b), (2) and (3) of FSMA 2000”;
- (b) for “The competent authority of the home Member State” substitute “The FCA”.

(3) In paragraph 2—

- (a) in the first subparagraph, for “competent authority” substitute “FCA”;
- (b) in the second subparagraph, for “Article 5(1) of Directive 2003/71/EC” substitute “section 87A(1)(b), (2) and (3) of FSMA 2000”.

(4) In paragraph 3—

- (a) for “referred to in Article 6(1) of Directive 2003/71/EC” substitute “specified in Section 5 of Chapter 5 of the Prospectus Rules sourcebook”;
- (b) for “competent authority” substitute “FCA”.

(5) In paragraph 4(b), for “Article 5(1) of Directive 2003/71/EC” substitute “section 87A(2) of FSMA 2000”.

### **Securities note schedule for certain debt securities**

47. In Article 8 (securities note schedule for debt securities with a denomination per unit of less than 100,000 euros) after paragraph 5 insert—

“6. In this Article “regulated market” includes an equivalent market outside the United Kingdom.”.

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(a) Inserted by Commission Delegated Regulation 486/2012/EU.

(b) Inserted by Commission Regulation 211/2007/EC.



### **Guarantees building block**

48. In Article 9 (guarantees building block), in the second paragraph, omit “Member”.

### **Banks registration document schedule**

49. In Article 14 (banks registration document schedule), in paragraph 2, for the first subparagraph substitute—

“The schedule referred to in paragraph 1 applies to—

- (a) a credit institution which has permission under Part 4A of FSMA 2000 to carry on the regulated activity of accepting deposits and has its registered office, or if it has no registered office, its head office, in the United Kingdom, and
- (b) a credit institution established outside the United Kingdom which does not fall within point (a) but has its registered office in a state which is a member of the OECD.”.

### **Securities note schedule for certain debt securities**

50. In Article 16 (securities note schedule for debt securities with a denomination per unit of at least 100,000 euros) after paragraph 5 insert—

“6. In this Article “regulated market” includes an equivalent market outside the United Kingdom.”.

### **Additional information building block on the underlying share**

51. In Article 17 (additional information building block on the underlying share), in paragraph 2(2), for “Union” substitute “United Kingdom”.

### **Registration document schedule for collective investment undertakings of closed-end type**

52. In Article 18 (registration document schedule for collective investment undertakings of the closed-end type), in paragraph 2(1), omit “Member”.

### **Registration document schedule for States and regional and local authorities**

53.—(1) Article 19 (registration document schedule for Member States, third countries and their regional and local authorities) is amended as follows.

(2) In the heading, for the words from “Member States” to the end substitute “UK and foreign governments or regional or local authorities”.

(3) In paragraphs 1 and 2, for the words from “Member States” to “authorities” substitute “the government of the United Kingdom or of any other country or by a regional or local authority in the United Kingdom or any other country”.

### **Additional building block for consent given in accordance with Article 3(2) of Directive 2003/71/EC**

54.—(1) Article 20a (additional building block for consent given in accordance with Article 3(2) of Directive 2003/71/EC)(a) is amended as follows.

(2) In the heading, for “Article 3(2) of Directive 2003/71/EC” substitute “section 86(1A) of FSMA 2000”.

(3) In paragraph 1, for “the third subparagraph of Article 3(2) of Directive 2003/71/EC” substitute “section 86(1A) of FSMA 2000”.

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(a) Inserted by Commission Delegated Regulation 862/2012/EU.

(4) In paragraph 2, for “the second paragraph of Article 3(2) of Directive 2003/71/EC” substitute “section 85(1) of FSMA 2000”.

#### **Minimum information to be included in a base prospectus and its related final terms**

**55.**—(1) Article 22 (minimum information to be included in a base prospectus and its related final terms) is amended as follows.

(2) In paragraph 1—

- (a) in the second subparagraph, for “Competent authorities” substitute “The FCA”;
- (b) in the third subparagraph, for the words from the beginning to “that Directive,” substitute “In order to ensure conformity with subsection (1)(b) of section 87A of FSMA 2000, the FCA, when approving a base prospectus in accordance with that section,”;
- (c) in the fourth subparagraph, for the words from “Article 5(2)” to “that Directive,” substitute “subsection (5) of section 87A of FSMA 2000, the FCA, when approving the base prospectus in accordance with that section,”.

(3) In paragraph 5(3), for “point (a) of Article 5(4) of Directive 2003/71/EC” substitute “rule 2.2.7(1) of the Prospectus Rules sourcebook”.

(4) In paragraph 6(3), for “point (b) of Article 5(4) of Directive 2003/71/EC” substitute “rule 2.2.7(2) of the Prospectus Rules sourcebook”.

(5) In paragraph 7—

- (a) in the first subparagraph, for “Article 16(1) of Directive 2003/71/EC” substitute “section 87G(1) of FSMA 2000”;
- (b) in the second subparagraph, for “Article 16(2) of Directive 2003/71/EC” substitute “section 87Q(4) of FSMA 2000”.

#### **Adaptations to minimum information given in prospectuses and base prospectuses**

**56.**—(1) Article 23 (adaptations to minimum information given in prospectuses and base prospectuses) is amended as follows.

(2) In paragraph 1—

- (a) in the first subparagraph—
  - (i) for “competent authority of the home Member State” substitute “FCA”;
  - (ii) for “Article 5(1) of Directive 2003/71/EC” substitute “section 87A(1)(b) of FSMA 2000”;
  - (iii) omit the second sentence;
- (b) omit the second subparagraph.

(3) In paragraph 3—

- (a) in the first subparagraph, for “competent authority of the home Member State” substitute “FCA”;
- (b) in the second subparagraph—
  - (i) for “competent authority”, in the first place where it occurs, substitute “FCA”;
  - (ii) for “Article 5(1) of Directive 2003/71/EC” substitute “section 87A(1)(b) of FSMA 2000”;
  - (iii) omit the second sentence.

#### **Content of the summary etc.**

**57.** In Article 24 (content of the summary etc.), in paragraph 1, for “Article 5(2) of Directive 2003/71/EC”, in both places where it occurs, substitute “section 87A(5) of FSMA 2000”.

## **Format of the prospectus**

**58.**—(1) Article 25 (format of the prospectus) is amended as follows.

(2) In paragraph 1—

- (a) for “Article 5(3) of Directive 2003/71/EC” substitute “rule 2.2.1 of the Prospectus Rules sourcebook”;
- (b) in point (2), for “Article 5(2) of Directive 2003/71/EC” substitute “section 87A(5) of FSMA 2000”.

(3) In paragraph 2, for “Article 5(3) of Directive 2003/71/EC” substitute “rules 2.2.1 and 2.2.2 of the Prospectus Rules sourcebook”.

(4) In paragraph 4, for “competent authority of the home Member State” substitute “FCA”.

(5) In paragraph 5, for “Article 16(1) of Directive 2003/71/EC” substitute “section 87G of FSMA 2000”.

## **Format of base prospectus and its related final terms**

**59.**—(1) Article 26 (format of base prospectus and its related final terms) is amended as follows.

(2) In paragraph 1—

- (a) for “Article 5(4) of Directive 2003/71/EC” substitute “rule 2.2.7 of the Prospectus Rules sourcebook”;
- (b) in point (2), for “Article 5(2) of Directive 2003/71/EC” substitute “section 87A(5) of FSMA 2000”.

(3) In paragraph 3, for “home competent authority” substitute “FCA”.

(4) In paragraph 4, for “points (a) and (b) of Article 5(4) of Directive 2003/71/EC” substitute “rule 2.2.7 of the Prospectus Rules sourcebook”.

(5) In paragraph 5, in the fourth subparagraph—

- (a) in point (a), for “Article 5(4) of Directive 2003/71/EC” substitute “rules 2.2.9 and 2.2.9A of the Prospectus Rules sourcebook”;
- (b) in point (b), for “Article 14 of Directive 2003/71/EC” substitute “rules 3.2.2 to 3.2.6 of the Prospectus Rules sourcebook”.

(6) Omit paragraph 5a.

(7) In paragraph 7, in the first subparagraph, for “Article 16(1) of Directive 2003/71/EC” substitute “section 87G of FSMA 2000”.

## **Proportionate schedule for rights issues**

**60.**—(1) Article 26a (proportionate schedule for rights issues)(a) is amended as follows.

(2) In paragraph 1, for “a multilateral trading facility as defined in point 15 of Article 4(1) of Directive 2004/39/EC of the European Parliament and of the Council” substitute “a UK multilateral trading facility as defined in Article 2(1)(14A) of the markets in financial instruments regulation”.

(3) In paragraph 2—

- (a) after “trading on a” insert “UK”;
- (b) in point (a), for “point 1 of the first paragraph of Article 1 of Directive 2003/6/EC pursuant to Article 6 of that Directive” substitute “Article 7(1) of Regulation 596/2014/EU pursuant to Article 17 of that Regulation”;
- (c) in point (c) for “Directive 2003/6/EC” substitute “Regulation 596/2014/EU”.

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(a) Articles 26a to 26c were inserted by Commission Delegated Regulation 486/2012/EU.

### **Proportionate schedules for small and medium-sized enterprises etc.**

**61.** In Article 26b (proportionate schedules for small and medium-sized enterprises and companies with reduced market capitalisation), in the first paragraph, omit the words from “situated” to the end.

### **Proportionate requirements for issues by certain credit institutions**

**62.** In Article 26c (proportionate requirements for issues by credit institutions referred to in Article 1(2)(j) of Directive 2003/71/EC)—

- (a) in the heading, for the words from “Article” to the end substitute “paragraph 8 of Schedule 11A to FSMA 2000”;
- (b) for “Article 1(2)(j) of Directive 2003/71/EC” substitute “paragraph 8 of Schedule 11A to FSMA 2000”;
- (c) for “Article 1(3) of that Directive” substitute “section 87 of that Act”.

### **Arrangements for incorporation by reference**

**63.** In Article 28 (arrangements for incorporation by reference), in paragraph 2, for “Article 19 of Directive 2003/71/EC” substitute “section 1 of Chapter 4 of the Prospectus Rules sourcebook”.

### **Historical financial information**

**64.—**(1) Article 35 (historical financial information) is amended as follows.

(2) Omit paragraphs 1 to 4.

(3) Before paragraph 5 insert—

“4A. In relation to any financial year beginning on or before the day on which exit day falls, issuers established in the United Kingdom must present their historical financial information in accordance with—

- (a) International Financial Reporting Standards adopted pursuant to Regulation (EC) No 1606/2002 as it applies in the European Union;
- (b) if those standards are not applicable, UK accounting standards.

4B. In relation to any accounting year beginning on or before the day on which exit day falls, issuers established in an EEA State must present their historical financial information in accordance with—

- (a) International Financial Reporting Standards adopted pursuant to Regulation (EC) No 1606/2002 as it applies in the European Union, or
- (b) if not applicable, national accounting standards of that EEA State.”.

(4) In paragraph 5—

(a) in the first subparagraph—

- (i) for “third country issuers” substitute “, in relation to any financial year beginning on or before the day on which exit day falls, issuers established outside the United Kingdom and the EEA States”;
- (ii) in paragraph (a), after “Regulation (EC) No 1606/2002” insert “as it applies in the European Union”;

(b) in the second subparagraph, for “third country issuers” substitute “, in relation to any financial year beginning on or before the day on which exit day falls, issuers established outside the United Kingdom and the EEA States”.

(5) In paragraph 5a—

- (a) for “Third country issuers” substitute “Issuers established outside the United Kingdom and the EEA States”;

- (b) after “1606/2002” insert “as it applies in the European Union”.

### **Omission of Article 36**

- 65.** Omit Article 36 (entry into force).

### **Amendments of Annexes**

- 66.** The Annexes are amended in accordance with Schedule 1 to these Regulations.

## **CHAPTER 2**

### **Amendments of other EU Regulations and of EU Decision**

### **Commission Regulation (EC) No 1569/2007**

**67.**—(1) Commission Regulation (EC) No 1569/2007 of 21 December 2007 establishing a mechanism for the determination of equivalence of accounting standards applied by third country issuers of securities pursuant to Directives 2003/71/EC and 2004/109/EC of the European Parliament and of the Council is amended as follows.

(2) In Article 1 (subject matter)—

- (a) after “considered” insert “for the specified purposes as”;
- (b) for the words from “International” to “IFRS)” substitute “UK-adopted international accounting standards”;
- (c) at the end insert—

“In this Regulation—

- (a) “third country” means a country outside the United Kingdom, and
- (b) “the specified purposes” means the purposes of—
  - (i) rules made by the Financial Conduct Authority that are “prospectus rules” as defined by section 73A(4) of the Financial Services and Markets Act 2000 or “transparency rules” as defined by section 89A(5) of that Act, and
  - (ii) Commission Regulation (EC) No 809/2004 of 29 April 2004 implementing Directive 2003/71/EC of the European Parliament and of the Council as regards information contained in prospectuses as well as the format, incorporation by reference and publication of such prospectuses and dissemination of advertisements;
- (c) “UK-adopted international accounting standards” has the meaning given by section 474(1) of the Companies Act 2006.”

(3) In Article 2 (equivalence)—

- (a) after “considered” insert “for the specified purposes as”;
- (b) for the words from “IFRS adopted” to “No 1606/2002” substitute “UK-adopted international accounting standards”;
- (c) for “in accordance with IFRS” substitute “in accordance with UK-adopted international accounting standards”.

(4) In Article 3 (equivalence mechanism)—

- (a) in the first paragraph—
  - (i) for “Commission” substitute “Treasury”;
  - (ii) for “competent authority of a Member State” substitute “Financial Conduct Authority”;
- (b) for the second paragraph substitute—

“Before making a determination of equivalence, the Treasury must consult the Secretary of State.

A determination of equivalence is to be made by the Treasury by regulations made by statutory instrument.”.

(5) After Article 3 insert—

*“Article 3A*

**Treasury regulations under Article 3**

1. Regulations made by the Treasury under Article 3 may—

- (a) contain incidental, supplemental, consequential and transitional provision,
- (b) make different provision for different purposes, and
- (c) amend or revoke Commission Decision (EC) No 2008/961 on the use by third countries’ issuers of securities of certain third country’s national accounting standards and International Financial Reporting Standards to prepare their consolidated financial statements.

2. A statutory instrument containing regulations made by the Treasury under Article 3 is subject to annulment in pursuance of a resolution of either House of Parliament.”.

(6) Omit Article 4 (conditions for the acceptance of third country accounting standards for a period ending no later than 31 March 2016).

(7) Omit Article 5 (entry into force and application).

**Commission Decision (EC) No 2008/961**

**68.**—(1) Commission Decision (EC) No 2008/961 of 12 December 2008 on the use by third countries’ issuers of securities of certain third country’s national accounting standards and International Financial Reporting Standards to prepare their consolidated financial statements is amended as follows.

(2) In Article 1—

(a) in the first paragraph—

- (i) for the words from the beginning to “No 1606/2002:”, in the second place where it occurs, substitute “From exit day, with regard to annual consolidated financial statements and half-yearly consolidated financial statements, the following standards are to be considered as equivalent to UK-adopted international accounting standards:”;

(ii) after point (c) insert—

“(d) International Financial Reporting Standards adopted pursuant to Regulation (EC) No 1606/2002 of the European Parliament and of the Council of 19 July 2002 on the application of International Accounting Standards, as it applies in the European Union.”;

(b) in the second paragraph, for the words from the beginning to “No 1606/2002:” substitute “From exit day, with regard to annual consolidated financial statements and half-yearly consolidated financial statements, the following standards are to be considered as equivalent to UK-adopted international accounting standards:”;

(c) omit the paragraph beginning “Third country issuers”;

(d) at the end insert—

“In this Decision “third country” means a country outside the United Kingdom.”.

(3) Omit Article 1a.

(4) Omit Articles 2 and 3.

## **European Parliament and Council Regulation (EU) 2017/1129**

**69.** In Regulation (EU) 2017/1129 of the European Parliament and of the Council of 14 June 2017 on the prospectus to be published when securities are offered to the public or admitted to trading on a regulated market, and repealing Directive 2003/71/EC the following provisions are omitted—

- (a) in Article 1—
  - (i) paragraph 3;
  - (ii) points (a), (b) and (c) of the first subparagraph of paragraph 5, and
  - (iii) the second subparagraph of paragraph 5, and
- (b) Article 3(2).

## **PART 4**

### **Transfer of directive functions to the Treasury or the FCA**

#### **Interpretation of Schedule 2**

**70.** Part 1 of Schedule 2 contains interpretative provisions for the purposes of that Schedule.

#### **Transfer of directive functions to the Treasury**

**71.—**(1) The Treasury may make regulations for the purposes specified in Part 2 of Schedule 2.

(2) The power to make regulations conferred on the Treasury by this regulation is exercisable by statutory instrument.

(3) The regulations may—

- (a) contain incidental, supplemental, consequential and transitional provision, and
- (b) make different provision for different purposes.

(4) A statutory instrument containing regulations under this regulation is subject to annulment in pursuance of a resolution of either House of Parliament.

#### **Transfer of directive functions to the FCA**

**72.** The FCA may make technical standards for the purposes specified in Part 3 of Schedule 2.

## **PART 5**

### **Transitional provision**

#### **Prospectus approved before exit day by competent authority of other EEA state**

**73.—**(1) Paragraph (2) applies to a prospectus which—

- (a) was approved before exit day by the competent authority of an EEA state other than the United Kingdom which is for the purposes of the prospectus directive the home State in relation to the issuer of the securities (“the home State authority”),
- (b) in respect of which the home State authority has before exit day provided the FCA with the documents specified in section 87H(1)(a) to (c) of FSMA 2000, and
- (c) which is immediately before exit day an approved prospectus for the purposes of section 85 of FSMA 2000.

(2) On and after exit day, the prospectus is to be treated for the purposes of Part 6 of FSMA 2000 as if it had been approved by the FCA at the time when it was approved by the home State authority.

(3) Paragraphs (1) and (2) apply in relation to a supplementary prospectus approved in accordance with Article 16 of the prospectus directive as they apply in relation to a prospectus approved in accordance with Article 13 of that directive.

(4) “The prospectus directive” has the same meaning as in Part 6 of FSMA 2000.

*Rebecca Harris  
Craig Whittaker*

27th March 2019

Two of the Lords Commissioners of Her Majesty’s Treasury

## SCHEDULE 1

Regulation 66

### Amendments of Annexes to Commission Regulation (EC) No 809/2004

1.—(1) Annex 1 is amended as follows.

(2) In item 19, in the first paragraph—

- (a) for “the Standards adopted according to the Regulation (EC) No 1606/2002)” substitute “UK-adopted international accounting standards or UK accounting standards”;
- (b) for “the respective standard adopted according to Regulation (EC) No 1606/2002” substitute “UK-adopted international accounting standards or UK accounting standards”.

(3) In item 20.1—

- (a) in the first subparagraph, omit the third, fourth and fifth sentences;
- (b) after the first subparagraph insert—

“In relation to a financial year beginning on or before the day on which exit day falls, such financial information must be prepared as mentioned in Article 35.

In relation to a financial year beginning after the day on which exit day falls, for issuers established in the United Kingdom, such financial information must be prepared in accordance with—

- (a) UK-adopted international accounting standards, or
- (b) if those standards are not applicable, UK accounting standards.

In relation to a financial year beginning after the day on which exit day falls, for issuers established in a country outside the United Kingdom, such financial information must be prepared in accordance with—

- (a) UK-adopted international accounting standards,
- (b) one of the accounting standards referred to in Article 35(5), or
- (c) national accounting standards of that country that are equivalent to UK-adopted international accounting standards.

For an issuer established in a country outside the United Kingdom, if such financial information is not prepared in accordance with the required standards, it must be presented in the form of restated financial statements.”;

- (c) in the subparagraph beginning “If the issuer has been operating”, for the words from “the standards applicable” to the end of the second sentence substitute “the standards that would apply under the second, third or fourth subparagraph to an annual financial statement in respect of a financial year beginning at the time when that period began.”;
- (d) in the final subparagraph, for “a Member State” substitute “the United Kingdom”.



**2.** In Annex 4, in item 13.1—

- (a) in the first subparagraph, omit the third, fourth and fifth sentences;
- (b) after the first subparagraph insert—

“In relation to a financial year beginning on or before the day on which exit day falls, such financial information must be prepared as mentioned in Article 35.

In relation to a financial year beginning after the day on which exit day falls, for issuers established in the United Kingdom, such financial information must be prepared in accordance with—

- (a) UK-adopted international accounting standards, or
- (b) if those standards are not applicable, UK accounting standards.

In relation to a financial year beginning after the day on which exit day falls, for issuers established in a country outside the United Kingdom, such financial information must be prepared in accordance with—

- (a) UK-adopted international accounting standards,
- (b) one of the accounting standards referred to in Article 35(5), or
- (c) national accounting standards of that country that are equivalent to UK-adopted international accounting standards.

For an issuer established in a country outside the United Kingdom, if such financial information is not prepared according to the required standards, it must be presented in the form of restated financial statements.”;

- (c) in the subparagraph beginning “If the issuer has been operating”, for the words from “the standards applicable” to the end of the second sentence substitute “the standards that would apply under the second, third or fourth subparagraph to an annual financial statement in respect of a financial year beginning at the time when that period began.”;
- (d) in the final subparagraph, for “a Member State” substitute “the United Kingdom”.

**3.—(1)** Annex 7 is amended as follows.

**(2)** In item 8.2—

- (a) in the first subparagraph, omit the third, fourth and fifth sentences;
- (b) after the first subparagraph insert—

“In relation to a financial year beginning on or before the day on which exit day falls, such financial information must be prepared as mentioned in Article 35.

In relation to a financial year beginning after the day on which exit day falls, for issuers established in the United Kingdom, such financial information must be prepared in accordance with—

- (a) UK-adopted international accounting standards, or
- (b) if those standards are not applicable, UK accounting standards.

In relation to a financial year beginning after the day on which exit day falls, for issuers established in a country outside the United Kingdom, such financial information must be prepared in accordance with—

- (a) UK-adopted international accounting standards,
- (b) one of the accounting standards referred to in Article 35(5), or
- (c) national accounting standards of that country that are equivalent to UK-adopted international accounting standards.

For an issuer established in a country outside the United Kingdom, if such financial information is not prepared according to the required standards, it must be presented in the form of restated financial statements.”;

- (c) in the subparagraph beginning “If the issuer has been operating”, for the words from “the standards applicable” to the end of the second sentence substitute “the standards that would apply under the second, third or fourth subparagraph to an annual financial statement in respect of a financial year beginning at the time when that period began.”;
- (d) in the final subparagraph, for “a Member State” substitute “the United Kingdom”.

(3) In item 8.2a—

- (a) in the first subparagraph, omit the third, fourth and fifth sentences and points (a) and (b);
- (b) after the first subparagraph insert—

“In relation to a financial year beginning on or before the day on which exit day falls, such financial information must be prepared as mentioned in Article 35.

In relation to a financial year beginning after the day on which exit day falls, for issuers established in the United Kingdom, such financial information must be prepared in accordance with—

- (a) UK-adopted international accounting standards, or
- (b) if those standards are not applicable, UK accounting standards.

In relation to a financial year beginning after the day on which exit day falls, for issuers established in a country outside the United Kingdom, such financial information must be prepared in accordance with—

- (a) UK-adopted international accounting standards,
- (b) one of the accounting standards referred to in Article 35(5), or
- (c) national accounting standards of that country that are equivalent to UK-adopted international accounting standards.

For an issuer established in a country outside the United Kingdom, if such financial information is not prepared according to the required standards, the following information must be included in the registration document—

- (a) a prominent statement that the financial information included in the registration document has not been prepared—
  - (i) in the case of a financial year beginning on or before the day on which exit day falls, in accordance with International Financial Reporting Standards adopted pursuant to Regulation (EC) No 1606/2002 as it applies in the European Union, or
  - (ii) in the case of a financial year beginning after that day, in accordance with UK-adopted international accounting standards, and
- (b) immediately following the historical financial information, a narrative description of the differences between whichever of those international standards is relevant and the accounting principles adopted by the issuer in preparing its annual financial statements.”;

- (c) in the final subparagraph, for “a Member State” substitute “the United Kingdom”.

4. In Annex 9, in item 11.1—

- (a) in the first subparagraph, omit the third, fourth and fifth sentences and points (a) and (b);
- (b) after the first subparagraph insert—

“In relation to a financial year beginning on or before the day on which exit day falls, such financial information must be prepared as mentioned in Article 35.

In relation to a financial year beginning after the day on which exit day falls, for issuers established in the United Kingdom, such financial information must be prepared in accordance with—

- (a) UK-adopted international accounting standards, or
- (b) if those standards are not applicable, UK accounting standards.

In relation to a financial year beginning after the day on which exit day falls, for issuers established in a country outside the United Kingdom, such financial information must be prepared in accordance with—

- (a) UK-adopted international accounting standards,
- (b) one of the accounting standards referred to in Article 35(5), or
- (c) national accounting standards of that country that are equivalent to UK-adopted international accounting standards.

For an issuer established in a country outside the United Kingdom, if such financial information is not prepared according to the required standards, the following information must be included in the registration document—

- (a) a prominent statement that the financial information included in the registration document has not been prepared—
  - (i) in the case of a financial year beginning on or before the day on which exit day falls, in accordance with International Financial Reporting Standards adopted pursuant to Regulation (EC) No 1606/2002 as it applies in the European Union, or
  - (ii) in the case of a financial year beginning after the day on which exit day falls, in accordance with UK-adopted international accounting standards, and
- (b) immediately following the historical financial information, a narrative description of the differences between whichever of those international standards is relevant and the accounting principles adopted by the issuer in preparing its annual financial statements.”;
- (c) in the final subparagraph, for “a Member State” substitute “the United Kingdom”.

**5.**—(1) Annex 10 is amended as follows.

(2) In item 19—

- (a) for “those set out in the Standards adopted according to Regulation (EC) No 1606/2002” substitute “UK-adopted international accounting standards or UK accounting standards”;
- (b) for “the respective standard adopted according to Regulation (EC) No 1606/2002” substitute “UK-adopted international accounting standards or UK accounting standards”.

(3) In item 20.1—

- (a) in the first subparagraph, omit the third, fourth and fifth sentences;
- (b) after the first subparagraph insert—

“In relation to a financial year beginning on or before the day on which exit day falls, such financial information must be prepared as mentioned in Article 35.

In relation to a financial year beginning after the day on which exit day falls, for issuers established in the United Kingdom, such financial information must be prepared in accordance with—

- (a) UK-adopted international accounting standards, or
- (b) if those standards are not applicable, UK accounting standards.

In relation to a financial year beginning after the day on which exit day falls, for issuers established in a country outside the United Kingdom, such financial information must be prepared in accordance with—

- (a) UK-adopted international accounting standards,
- (b) one of the accounting standards referred to in Article 35(5), or
- (c) national accounting standards of that country that are equivalent to UK-adopted international accounting standards.

For an issuer established in a country outside the United Kingdom, if such financial information is not prepared in accordance with the required standards, it must be presented in the form of restated financial statements.”;

- (c) in the subparagraph beginning “If the issuer has been operating”, for the words from “the standards applicable” to the end of the second sentence substitute “the standards that would apply under the second, third or fourth subparagraph to an annual financial statement in respect of a financial year beginning at the time when that period began”;
- (d) in the final subparagraph, for “a Member State” substitute “the United Kingdom”.

(4) In item 20.1a—

- (a) in the first subparagraph, omit the third, fourth and fifth sentences and points (a) and (b);
- (b) after the first subparagraph insert—

“In relation to a financial year beginning on or before the day on which exit day falls, such financial information must be prepared as mentioned in Article 35.

In relation to a financial year beginning after the day on which exit day falls, for issuers established in the United Kingdom, such financial information must be prepared in accordance with—

- (a) UK-adopted international accounting standards, or
- (b) if those standards are not applicable, UK accounting standards.

In relation to a financial year beginning after the day on which exit day falls, for issuers established in a country outside the United Kingdom, such financial information must be prepared in accordance with—

- (a) UK-adopted international accounting standards,
- (b) one of the accounting standards referred to in Article 35(5), or
- (c) national accounting standards of that country that are equivalent to UK-adopted international accounting standards.

For an issuer established in a country outside the United Kingdom, if such financial information is not prepared according to the required standards, the following information must be included in the registration document—

- (a) a prominent statement that the financial information included in the registration document has not been prepared—
  - (i) in the case of a financial year beginning on or before the day on which exit day falls, in accordance with International Financial Reporting Standards adopted pursuant to Regulation (EC) No 1606/2002 as it applies in the European Union, or
  - (ii) in the case of a financial year beginning after the day on which exit day falls, in accordance with UK-adopted international accounting standards, and
- (b) immediately following the historical financial information, a narrative description of the differences between whichever of those international standards is relevant and the accounting principles adopted by the issuer in preparing its annual financial statements.”;
- (c) in the final subparagraph, for “a Member State” substitute “the United Kingdom”.

**6.** In Annex 11, in item 11.1—

- (a) in the first subparagraph, omit the third, fourth and fifth sentences;
- (b) after the first subparagraph insert—

“In relation to a financial year beginning on or before the day on which exit day falls, such financial information must be prepared as mentioned in Article 35.

In relation to a financial year beginning after the day on which exit day falls, for issuers established in the United Kingdom, such financial information must be prepared in accordance with—

- (a) UK-adopted international accounting standards, or
- (b) if those standards are not applicable, UK accounting standards.

In relation to a financial year beginning after the day on which exit day falls, for issuers established in a country outside the United Kingdom, such financial information must be prepared in accordance with—

- (a) UK-adopted international accounting standards,
- (b) one of the accounting standards referred to in Article 35(5), or
- (c) national accounting standards of that country that are equivalent to UK-adopted international accounting standards.

For an issuer established in a country outside the United Kingdom, if such financial information is not prepared according to the required standards, it must be presented in the form of restated financial statements.”;

- (c) in the subparagraph beginning “If the issuer has been operating”, for the words from “the standards applicable” to the end of the second sentence substitute “the standards that would apply under the second, third or fourth subparagraph to an annual financial statement in respect of a financial year beginning at the time when that period began”;
- (d) in the final subparagraph, for “a Member State” substitute “the United Kingdom”.

**7.** In Annex 15, in item 2.9, omit “Member”, in the first place where it occurs, and “, or OECD Member State”.

**8.** In Annex 16, in the heading, for “Member States, third countries” substitute “States”.

**9.** In Annex 21, for “as referred to in recital 18 of the Prospectus Regulation” substitute “such as shares resulting from the conversion or exchange of other securities or from the exercise of the rights conferred by other securities”.

**10.**—(1) Annex 22 is amended as follows.

(2) In the guide, in paragraph 7, for “by a Member State in accordance with Articles 5(2) and 19(4) of Directive 2003/71/EC” substitute “by section 87A(5) of FSMA 2000”.

(3) In Section A, in the entry relating to Element A.1, omit the words from “where a claim” to “are initiated”.

**11.**—(1) Annex 23 is amended as follows.

(2) In item 14—

- (a) in the first subparagraph, for the words from “If” to “do not apply” substitute “If UK-adopted international accounting standards or, in relation to financial years beginning on or before the day on which exit day falls, International Accounting Standards adopted according to Regulation (EC) No 1606/2002 as it applies in the European Union, do not apply”;
- (b) in the second subparagraph, for the words from “If” to “apply” substitute “If UK-adopted international accounting standards or, in relation to financial years beginning on or before the day on which exit day falls, International Accounting Standards adopted according to Regulation (EC) No 1606/2002 as it applies in the European Union, apply”.

(3) In item 15.1—

- (a) in the first subparagraph, omit the final sentence;
- (b) after the first subparagraph insert—

“In relation to a financial year beginning on or before the day on which exit day falls, such financial information must be prepared as mentioned in Article 35.

For an issuer established in the United Kingdom, in respect of a financial year beginning on or before the day on which exit day falls, such financial information must be prepared in accordance with—

- (a) UK-adopted international accounting standards, or
- (b) if those standards are not applicable, UK accounting standards.”
- (c) for the subparagraph beginning “For third country” substitute—

“For an issuer established in a country outside the United Kingdom, in respect of a financial year beginning after the day on which exit day falls, such financial information must be prepared in accordance with—

  - (a) UK-adopted international accounting standards,
  - (b) one of the accounting standards referred to in Article 35(5), or
  - (c) national accounting standards of that country that are equivalent to UK-adopted international accounting standards.

For an issuer established in a country outside the United Kingdom, if such financial information is not prepared according to the required standards, it must be presented in the form of restated financial statements.”;

- (d) in the subparagraph beginning “If the issuer has been operating”, for the words from “the standards applicable” to the end of the second sentence substitute “the standards that would apply under the second, third or fourth subparagraph to an annual financial statement in respect of a financial year beginning at the time when that period began.”.

**12.—**(1) Annex 25 is amended as follows.

(2) In item 9, for “Article 46 of Directive 78/660/EEC and Article 36 of Directive 83/349/EEC” substitute “Part 15 of the Companies Act 2006”.

(3) In item 19—

- (a) in the first subparagraph, for the words from “If” to “do not apply” substitute “If UK-adopted international accounting standards or, in relation to financial years beginning on or before the day on which exit day falls, International Accounting Standards adopted according to Regulation (EC) No 1606/2002 as it applies in the European Union, do not apply”;
- (b) in the second subparagraph, for the words from “If” to “apply” substitute “If UK-adopted international accounting standards or, in relation to financial years beginning on or before the day on which exit day falls, International Accounting Standards adopted according to Regulation (EC) No 1606/2002 as it applies in the European Union, apply”.

(4) In item 20.1—

- (a) in the first subparagraph, for the words from “according to” to “Union,” substitute “in accordance with the required accounting standards,”;
- (b) after the first subparagraph insert—

“For issuers established in the United Kingdom, the required accounting standards are—

  - (a) in relation to financial years beginning on or before the day on which exit day falls, the standards required by Article 35, and
  - (b) in relation to financial years beginning after the day on which exit day falls, UK-adopted international accounting standards, or if not applicable, UK accounting standards.”;
- (c) in the subparagraph beginning “For third country”, for the words from the beginning to “these standards,” substitute “For issuers established in a country outside the United Kingdom, a statement that such financial information has been prepared and audited in accordance with the required accounting standards,”;
- (d) at the end insert—

“For issuers established in a country outside the United Kingdom, the required accounting standards are—

- (a) in relation to financial years beginning on or before the day on which exit day falls, the standards required by Article 35, and
- (b) in relation to financial years beginning after the day on which exit day falls, UK-adopted international accounting standards, one of the standards referred to in Article 35(5), or that country’s national accounting standards that are equivalent to UK-adopted international accounting standards.”.

**13. In Annex 26, in item 13.1—**

- (a) in the first subparagraph, for the words from “according to” to “Union” substitute “in accordance with the required accounting standards”;

- (b) after the first subparagraph insert—

“For issuers established in the United Kingdom, the required accounting standards are—

- (a) in relation to financial years beginning on or before the day on which exit day falls, the standards required by Article 35, and
- (b) in relation to financial years beginning after the day on which exit day falls, UK-adopted international accounting standards, or if not applicable, UK accounting standards.”;

- (c) in the subparagraph beginning “For third country”, for the words from the beginning to “these standards,” substitute “For issuers established in a country outside the United Kingdom, a statement that such financial information has been prepared and audited in accordance with the required accounting standards,”;

- (d) at the end insert—

“For issuers established in a country outside the United Kingdom, the required accounting standards are—

- (a) in relation to financial years beginning on or before the day on which exit day falls, the standards required by Article 35, and
- (b) in relation to financial years beginning after the day on which exit day falls, UK-adopted international accounting standards, the standards referred to in Article 35(5) or that country’s national accounting standards that are equivalent to UK-adopted international accounting standards.”.

**14. In Annex 27, in item 11.1—**

- (a) in the first subparagraph, for the words from “according to” to “Union,” substitute “in accordance with the required accounting standards,”;

- (b) after the first subparagraph insert—

“For issuers established in the United Kingdom, the required accounting standards are—

- (a) in relation to financial years beginning on or before the day on which exit day falls, the standards required by Article 35, and
- (b) in relation to financial years beginning after the day on which exit day falls, UK-adopted international accounting standards, or if not applicable, UK accounting standards.”.

- (c) in the subparagraph beginning “For third country”, for the words from the beginning to “these standards,” substitute “For issuers established in a country outside the United Kingdom, a statement that such financial information has been prepared and audited in accordance with the required accounting standards,”;

- (d) at the end insert—

“For issuers established in a country outside the United Kingdom, the required accounting standards are—

- (a) in relation to financial years beginning on or before the day on which exit day falls, the standards required by Article 35, and
- (b) in relation to financial years beginning after the day on which exit day falls, UK-adopted international accounting standards, the standards referred to in Article 35(5) or that country's national accounting standards that are equivalent to UK-adopted international accounting standards."

**15.**—(1) Annex 28 is amended as follows.

(2) In item 9, for "Article 46 of Directive 78/660/EEC and Article 36 of Directive 83/349/EEC" substitute "Part 15 of the Companies Act 2006".

(3) In item 19—

- (a) in the first subparagraph, for the words from "If" to "do not apply" substitute "If UK-adopted international accounting standards or, in relation to financial years beginning on or before the day on which exit day falls, International Accounting Standards adopted according to Regulation (EC) No 1606/2002 as it applies in the European Union, do not apply";
- (b) in the second subparagraph, for the words from "If" to "apply" substitute "If UK-adopted international accounting standards or, in relation to financial years beginning on or before the day on which exit day falls, International Accounting Standards adopted according to Regulation (EC) No 1606/2002 as it applies in the European Union, apply".

(4) In item 20.1—

- (a) in the first subparagraph, for the words from "according to" to "Union," substitute "in accordance with the required accounting standards,";
- (b) after the first subparagraph insert—
  - "For issuers established in the United Kingdom, the required accounting standards are—
  - (a) in relation to financial years beginning on or before the day on which exit day falls, the standards required by Article 35, and
  - (b) in relation to financial years beginning after the day on which exit day falls, UK-adopted international accounting standards, or if not applicable, UK accounting standards."
- (c) in the subparagraph beginning "For third country", for the words from the beginning to "these standards," substitute "For issuers established in a country outside the United Kingdom, a statement that such financial information has been prepared and audited in accordance with the required accounting standards,";
- (d) at the end insert—

"For issuers established in a country outside the United Kingdom, the required accounting standards are—

- (a) in relation to financial years beginning on or before the day on which exit day falls, the standards required by Article 35, and
- (b) in relation to financial years beginning after the day on which exit day falls, UK-adopted international accounting standards, the standards referred to in Article 35(5) or that country's national accounting standards that are equivalent to UK-adopted international accounting standards."

**16.**—(1) Annex 29 is amended as follows.

(2) In both the headings, for "Article 1(2)(j) of Directive 2003/71/EC" substitute "paragraph 5 of Schedule 11A to FSMA 2000".

(3) In item 11, for the words from "according to" to the end substitute "in accordance with UK-adopted international accounting standards or, if not applicable, UK accounting standards or, in relation to financial years beginning on or before the day on which exit day falls, as mentioned in Article 35."



## Transfer of functions to the Treasury and the FCA

## PART 1

## Interpretation

## 1. In this Schedule—

“the prospectus regulation” means Commission Regulation (EC) No 809/2004 of 29 April 2004 implementing Directive 2003/71/EC of the European Parliament and of the Council as regards information contained in prospectuses as well as the format, incorporation by reference and publication of such prospectuses and dissemination of advertisements;

“the Prospectus Rules sourcebook” means the Prospectus Rules sourcebook made under FSMA 2000 by the FCA, as it has effect on exit day;

“the Disclosure Guidance and Transparency Rules sourcebook” means the Disclosure Guidance and Transparency Rules sourcebook made under FSMA 2000 by the FCA, as it has effect on exit day.

## PART 2

## Directive functions transferred to the Treasury

## 2. The following purposes are specified for the purposes of regulation 71.

3. In order to take account of developments on financial markets, to adjust the limits in paragraphs 8 and 9 of Schedule 11A to FSMA 2000(a).

4. In order to take account of developments on financial markets, to amend the amounts specified in—

- (a) the definition of “small and medium-sized enterprises” in regulation 2(A8) of the prospectus regulation, and
- (b) the definition of “company with reduced market capitalisation” in regulation 2(A16) of the prospectus regulation (b).

5. In order to take account of developments on financial markets, including inflation, to amend the thresholds in section 86(1)(c) to (e) of FSMA 2000(c).

6. In order to take account of developments on financial markets, to specify the criteria to be taken into account in the assessment of the equivalence for the purposes of rule 1.2.2 of the Prospectus Rules sourcebook or to add further criteria to be applied(d).

7. To make provision about the specific information which must be included in a prospectus, avoiding duplication of information where a prospectus is composed of separate documents(e).

8. In order to take account of developments on financial markets, to specify the requirements to be met in cases where the FCA authorises the omission of information from the prospectus under section 87B(1) of FSMA 2000(f).

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- (a) This function is transferred from Article 1(4) of Directive 2003/71/EC.
  - (b) This function is transferred from Article 2(4) of Directive 2003/71/EC.
  - (c) This function is transferred from Article 3(4) of Directive 2003/71/EC.
  - (d) This function is transferred from Article 4(1) of Directive 2003/71/EC.
  - (e) This function is transferred from Article 7(1) of Directive 2003/71/EC.
  - (f) This function is transferred from Article 8(4) of Directive 2003/71/EC.

**9.** To establish general equivalence criteria for the purposes of rule 4.2.1 of the Prospectus Rules sourcebook and state that a country or territory outside the United Kingdom ensures the required equivalence**(a)**.

**10.** To establish for the purposes of transparency rules an indicative list of means that are not to be considered electronic means**(b)**.

**11.** In order to take account of developments on financial markets, to specify the conditions under which an annual financial report, published in accordance with an obligation imposed by virtue of section 89C of FSMA 2000, including the audit report, must remain available to the public and to adapt the period referred to in rule 4.1.4 of the Disclosure Guidance and Transparency Rules sourcebook**(c)**.

**12.** In order to take account of developments on financial markets, to specify the requirements to be met by the half-yearly financial reports required by virtue of section 89C of FSMA 2000, to specify the conditions under which such a report, including the auditors' review, must remain available to the public, to clarify the nature of the auditors' review, to specify the minimum contents of the condensed balance sheet and profit and loss accounts and explanatory notes on those accounts, and to adapt the period referred to in rule 4.2.2(3) of the Disclosure Guidance and Transparency Rules sourcebook**(d)**.

**13.** In order to take account of developments on financial markets, to do one or more of the following—

- (a) to specify requirements to be met by shareholders when giving notification to the issuer of the proportion of voting rights as a result of events changing the breakdown of voting rights, and on the basis of the information disclosed pursuant to rule 5.6.1 of the Disclosure Guidance and Transparency Rules sourcebook;
- (b) to specify requirements to be complied with in order for an issuer to benefit from the exemption in rule 5.1.3 (1) or (2) of that sourcebook;
- (c) to specify requirements to be complied with in order for an issuer to benefit from the exemption in rule 5.1.3(3) of that sourcebook;
- (d) to specify the maximum length of the settlement cycle referred to in rule 5.1.3(1) of that sourcebook;
- (e) to draw up a list of the events changing the breakdown of voting rights and giving rise to an obligation to notify the issuer in accordance with rule 5.1.2 of that sourcebook**(e)**.

**14.** In order to take account of developments on financial markets, to do one or more of the following—

- (a) to make provision for the publication by the FCA of a calendar of trading days in each regulated market;
- (b) to establish in which cases the shareholder, or the person regarded by virtue of section 89F(1)(b)(ii) of FSMA 2000 as holding voting rights in respect of shares, or both, are to give any notification to the issuer that is required by virtue of section 89B of that Act**(f)**;
- (c) to clarify the circumstances under which the shareholder, or the person regarded by virtue of section 89F(1)(b)(ii) of that Act as holding voting rights in respect of shares, should have learned of the acquisition or disposal of voting rights**(g)**.

**15.** To clarify the conditions of independence to be complied with by management companies and their parent undertakings or by investment firms and their parent undertakings in order to

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(a) This function is transferred from Article 20(3) of Directive 2003/71/EC.  
(b) This function is transferred from Article 2(3)(b) of Directive 2004/109/EC.  
(c) This function is transferred from Article 4(6) of Directive 2004/109/EC.  
(d) This function is transferred from Article 5(6) of Directive 2004/109/EC.  
(e) These functions are transferred from Article 9(7) of Directive 2004/109/EC.  
(f) This function is transferred from Article 12(8)(c) of Directive 2004/109/EC.  
(g) This function is transferred from Article 12(8)(d) of Directive 2004/109/EC.

benefit from rule 5.4.1 or 5.4.2 of the Disclosure Guidance and Transparency Rules sourcebook(a).

**16.** To specify the contents of the notification to be made, the notification period, and to whom the notification is to be made, under rule 5.3.1 of the Disclosure Guidance and Transparency Rules sourcebook(b).

**17.** In order to take account of developments on financial markets, to specify the requirements that must be imposed on issuers by transparency rules made by virtue of section 89D of FSMA 2000(c).

**18.** In order to take account of developments on financial markets and developments in information and communication technology, to specify requirements that must be imposed by Section 1 of Chapter 6 of the Disclosure Guidance and Transparency Rules sourcebook, so far as relating to issuers of shares or debt securities(d).

**19.** To specify the minimum standards for—

- (a) the dissemination of information in accordance with Section 3 of Chapter 6 of the Disclosure Guidance and Transparency Rules sourcebook;
- (b) the central storage mechanism required by section 89W of FSMA 2000(e).

**20.** To establish general criteria for the purposes of section 89A(4A) of FSMA 2000 in relation to financial statements and information required under the law, regulations or administrative provisions of a country or territory outside the United Kingdom and to state that, by reason of its domestic law, its administrative provisions, or practices or procedures based on international standards set by international organisations, a country or territory outside the United Kingdom ensures equivalent information requirements(f).

## PART 3

### Directive functions transferred to FCA

**21.** The following purposes are specified for the purposes of regulation 72.

**22.** To make provision about the exemptions from the obligation to publish a prospectus that are contained in rule 1.2.2 or rule 1.2.3(2) to (6) of the Prospectus Rules sourcebook(g).

**23.** To specify a uniform template for presentation of any summary required under section 84 of FSMA 2000(h).

**24.** To ensure uniform application of the requirements imposed under section 84 of the FSMA 2000 as to the content of documents(i).

**25.** To ensure uniform application of the provisions authorising the omission of certain information from the prospectus(j).

**26.** To specify the information that may be incorporated in the prospectus by reference to one or more previously or simultaneously published documents(k).

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(a) This function is transferred from Article 12(8)(e) of Directive 2004/109/EC.

(b) This function is transferred from Article 13(2) of Directive 2004/109/EC.

(c) This function is transferred from Article 14(2) of Directive 2004/109/EC.

(d) This function is transferred from Articles 17(4) and 18(5) of Directive 2004/109/EC.

(e) This function is transferred from Article 21(4)(a) and (b) of Directive 2004/109/EC.

(f) This function is transferred from Article 23(4) of Directive 2004/109/EC.

(g) This function is transferred from Article 4(3) of Directive 2003/71/EC.

(h) This function is transferred from Article 5(2) of Directive 2003/71/EC.

(i) This function is transferred from Article 7(4) of Directive 2003/71/EC.

(j) This function is transferred from Article 8(5) of Directive 2003/71/EC.

(k) This function is transferred from Article 11(3) of Directive 2003/71/EC.

**27.** To specify the procedures for the approval of the prospectus and the conditions in accordance with which time limits may be adjusted(**a**).

**28.** To specify the provisions relating to the publication of the prospectus(**b**).

**29.** To specify the provisions concerning the dissemination of advertisements announcing the intention to offer securities to the public or the admission to trading on a regulated market, in particular before the prospectus has been made available to the public or before the opening of the subscription(**c**).

**30.** To specify for the purposes of section 87G of FSMA 2000 situations where a significant new factor, material mistake or inaccuracy relating to the information included in the prospectus requires a supplement to the prospectus to be published(**d**).

**31.** To specify the electronic reporting format for annual financial reports published in accordance with an obligation imposed by virtue of section 89C(2) of FSMA 2000(**e**).

**32.** To specify the method of calculating any percentage threshold applying for the purposes of rule 5.1.3 of the Disclosure Guidance and Transparency Rules sourcebook(**f**).

**33.** To establish standard forms, templates and procedures to be used when—

- (a) notifying required information to the issuer under transparency rules made by virtue of section 89B of FSMA 2000, or
- (b) notifying the FCA under transparency rules made by virtue of section 89B of FSMA 2000(**g**).

**34.** To specify for the purposes of rule 5.3.3A of the Disclosure Guidance and Transparency Rules sourcebook—

- (a) the method for calculating the number of voting rights in the case of financial instruments referenced to a basket of shares or an index, and
- (b) the methods for determining delta for the purposes of calculating voting rights relating to financial instruments which provide exclusively for a cash settlement(**h**).

**35.** To specify the cases in which the exemptions laid down in rules 5.1.3, 5.4.1, 5.4.2 and 5.8.6 of the Disclosure Guidance and Transparency Rules sourcebook apply to financial instruments held by a person fulfilling orders received from clients or responding to a client's request to trade otherwise than on a proprietary basis, or hedging positions arising out of such dealings(**i**).

## EXPLANATORY NOTE

*(This note is not part of the Regulations)*

These Regulations are made in exercise of the powers in section 8(1) of, and paragraph 21 of Schedule 7 to, the European Union (Withdrawal) Act 2018 (c. 16) in order to address failures of retained EU law to operate effectively and other deficiencies (in particular, under section 8(2)(a), (b), (c) and (f)) arising from the withdrawal of the United Kingdom from the European Union.

These Regulations make amendments to legislation relating to the official listing of securities and prospectus and transparency requirements.

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- (a) This function is transferred from Article 13(7) of Directive 2003/71/EC.
  - (b) This function is transferred from Article 14(8) of Directive 2003/71/EC.
  - (c) This function is transferred from Article 15(7) of Directive 2003/71/EC.
  - (d) This function is transferred from Article 16(3) of Directive 2003/71/EC.
  - (e) This function is transferred from Article 4(7) of Directive 2004/109/EC.
  - (f) This function is transferred from Article 9(6b) of Directive 2004/109/EC.
  - (g) These functions are transferred from Articles 12(9) and 13(3) of Directive 2004/109/EC.
  - (h) This function is transferred from Article 13(1a) of Directive 2004/109/EC.
  - (i) This function is transferred from Article 13(4) of Directive 2004/109/EC.

These Regulations refer to the sourcebooks made by the Financial Conduct Authority under the Financial Services and Markets Act 2000 (c.8). The Sourcebooks made by the Financial Conduct Authority are available on <https://www.handbook.fca.org.uk/handbook> and copies of the rules referred to can be obtained from the Financial Conduct Authority, 12 Endeavour Square, London E20 1JN, where they are also available for inspection.

An impact assessment of the effect that this instrument, and certain other instruments made by HM Treasury under the European Union (Withdrawal) Act 2018, will have on the costs of business, the voluntary sector and the public sector is available from HM Treasury, 1 Horse Guards Road, London SW1A 2HQ and is published alongside this instrument at [www.legislation.gov.uk](http://www.legislation.gov.uk).

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