

Arrangements for the Disclosure of Regulated Information

Feedback on CP12/37, CP13/5 and CP13/6 and supplementary consultation

August 2013



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We are asking for comments on this Consultation Paper by 28 October 2013.
You can send them to us using the form on our website at:
www.fca.org.uk/your-fca/documents/consultation-papers/cp13-08-response.form

Or in writing to:

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We make all responses to formal consultation available for public inspection unless the respondent requests otherwise. We will not regard a standard confidentiality statement in an email message as a request for non-disclosure.

Despite this, we may be asked to disclose a confidential response under the Freedom of Information Act 2000. We may consult you if we receive such a request. Any decision we make not to disclose the response is reviewable by the Information Commissioner and the Information Rights Tribunal.

You can download this Consultation Paper from our website: www.fca.org.uk. Or contact our order line for paper copies: 0845 608 2372.

Abbreviations used in this document

CBA	Cost benefit analysis
CP	Consultation Paper
DTR	Disclosure & Transparency Rules
ECD	E-Commerce Directive
EEA	European Economic Area
EG	Enforcement Guide
EIA	Equality Impact Assessment
FCA	Financial Conduct Authority
FSMA	Financial Services and Market Act 2000
ISS	Information Society Service
LR	Listing Rules
MS	Member State
PIP	Primary Information Provider
RIS	Regulatory Information Service
TD	Transparency Directive
TP	Transitional Provision

1. Overview

Introduction

- 1.1** We are doing two things in this document. Firstly, we give our feedback on issues raised in response to the recent consultations:
- chapter 4 of CP12/37, which outlined the proposed new regulatory regime for Primary Information Providers (PIPs) and
 - chapter 3 of FSACP13/5, which outlined proposed fees for PIPs

And we finalise changes to the Enforcement Guide (EG) regarding PIPs that we proposed in chapter 2 of CP13/6, on which we received no responses.

- 1.2** Secondly, and arising from feedback about the definition of a Regulatory Information Service (RIS) contained in Appendix 3 of CP 12/37, we are consulting some more on that issue.
- 1.3** Specifically, respondents asked why we continue to include an incoming EEA 'Information Society Service' (ISS) within the definition of an RIS and the corresponding implications this may have for PIPs under the proposed new regime. So we are proposing some amendments around this definition. Chapter 4 of this paper contains a consultation on proposed amendments to the definition of an RIS.
- 1.4** We would like to thank all respondents for their involvement during these consultation periods. As a result of this contribution, we have made some amendments to the proposed rules, which are set out in more detail in chapters 2 and 3 of this paper.

Who does this affect?

- 1.5** This CP should be read by issuers, RISs and potential PIPs.

Is this of interest to consumers?

- 1.6** The proper operation of the PIPs regime is critical for investors and, in that sense, the proposals in this paper are of interest to consumers who deal and invest in UK-listed securities. However, this paper is of most direct interest to those mentioned above.

Context

- 1.7** As already mentioned, we have published a range of proposals on PIPs in several consultation papers (CPs). The key driver for these proposals was the Financial Services Act 2012, which moved the pre-existing informal framework for Regulatory Information Services onto a formal, statutory footing. Currently, under the Criteria for Regulated Information Services (the RIS Criteria), which are not part of the FCA Handbook, we may approve an application from a person to become an RIS and be included on our list of RISs, subject to meeting certain requirements in the RIS Criteria. Under the new statutory regime, we will approve and supervise PIPs and the requirements (similar to those in the RIS Criteria) will be enforceable. We have listened to the market and respond to the feedback to several consultations in one document.

Summary of feedback and our response

Feedback on requirements for PIPs

- 1.8** We received nine responses on the requirements for PIPs proposed in chapter 4 of CP12/37. These were broadly supportive but did raise some largely technical issues. We intend to make minor changes to the proposed rules on the following issues:

- business continuity requirements
- publication of fees and
- certain notification requirements

Feedback on fees for PIPs

- 1.9** Chapter 3 of CP13/5 proposed fees for PIPs. All nine respondents to chapter 4 of CP12/37 also provided feedback on these proposals, including the view from some that the proposed fees were too high. Despite this, we have decided to impose fees at the levels originally proposed. However, we will keep the level of fees under review.

Feedback on changes to EG

- 1.10** Chapter 2 of CP13/6 contained proposed amendments to the FCA's Enforcement Guide in relation to PIPs. We did not receive any comments on these proposals and will proceed with the amendments as proposed.

Supplementary consultation

- 1.11** As stated above, the feedback we got on defining an RIS led us to consider further how we should deal with what was, essentially, a legal issue. As a result, we are consulting on retaining an incoming EEA ISS within the definition of an RIS but requiring issuers that use one that is not approved within an EEA Member State to send us an annual statement. In this CP, we propose issuers confirm that all disclosures of regulated information made using such an RIS in the last year have been made in line with the Transparency Directive (TD).

Next steps

- 1.12** Subject to responses, we intend to make the rules in time for them to come into effect early in 2014.

2. Feedback on proposed requirements for PIPs in CP12/37, chapter 4

- 2.1** In CP 12/37 we proposed that our new regime, to be included in a new chapter of the Disclosure and Transparency Rules (DTRs), should be based on the existing framework in the RIS Criteria. We also proposed some updates, simplifications and enhancements to current requirements, and set out proposals for transitional arrangements.
- 2.2** We received eight responses which were broadly supportive but did raise some largely technical issues. The most important of these were in relation to:
- continuity of service
 - timing and prioritisation in disseminating regulated information
 - the publication of fees charged by PIPs
 - general notification requirements
- 2.3** This chapter summarises that feedback and our response to it.

Feedback and our response

- 2.4** Under our existing RIS Criteria, which are not part of the Handbook, we may approve a person to become a Regulated Information Service and be included on our list of Regulated Information Services. The RIS Criteria principally cover:
- conditions for approval
 - operational issues
 - requirements to have adequate systems and controls to ensure the certainty, accuracy and security of regulated information
 - requirements to disseminate regulated information on a timely basis and
 - requirements to provide certainty to recipients about the source of regulated information
- 2.5** An RIS has certain continuing obligations, including record-keeping requirements, sending us an annual report, and notifying us of specified events.

- 2.6** In Chapter 4 of CP12/37, we proposed that our new regime should be based on the existing framework in the RIS Criteria. This will create a more robust regulatory framework in which our new powers in relation to PIPs are underpinned by Handbook rules on their use. We also took the opportunity to propose changes in several areas, and to update, simplify or enhance the current requirements. CP12/37 also set out proposals for transitional arrangements.
- 2.7** As a result of the consultation, we have revised some of the draft rules that were set out in Appendix 3 of CP12/37. The main issues raised in the feedback, and any amendments that we have made to the draft rules as a consequence, are discussed in detail below. However, we have also made some minor drafting amendments to the draft rules. We set out our final rules on requirements for PIPs in Appendix 1 (please refer to Annexes A, B and C of the Instrument).

Business continuity arrangements

- 2.8** We proposed that a PIP must ensure that, when prevented from receiving and disseminating regulated information, it had arrangements in place to ensure that it could continue to satisfy its obligations (draft DTR 8.4.9R). We also proposed guidance that, when considering whether a PIP met the requirements of this rule, we would look at its arrangements for an alternative PIP to receive and disseminate information on its behalf.
- 2.9** Most responses raised the concern that the proposed rule did not allow for scheduled maintenance time or other unavoidable disruptions. In addition, some of the responses indicated that using an alternative PIP would create practical as well as competitive obstacles.

Our response: In response to this feedback we have changed the draft rule to specify that in such circumstances the PIP must be able to satisfy its obligations with minimal disruption. But we have not amended the guidance in the draft 8.4.9G (DTR8.4.10G in our final rules) because, as guidance, this does not impose a requirement on a PIP. We will further consider the issue of alternative arrangements and will invite PIPs to engage in further discussions with us on this.

Timing and prioritising the distribution of regulated information

- 2.10** Several respondents queried the proposed rule (draft DTR 8.4.3R), requiring RISs to distribute 95% of all regulated information within five minutes unless it requires re-formatting. One respondent was concerned that the draft rule was too onerous, while another said it represented a loosening of the current RIS Criteria. Another respondent said we should be clearer about what we mean by 're-formatting'.

Our response: We have decided not to change the substance of our proposals on this issue as our aim in drafting DTR 8.4.3R was to simplify the current RIS Criteria while maintaining an appropriately rigorous standard. However, we have simplified the rule (DTR 8.4.3R) and included accompanying guidance (DTR8.4.4G in our final rules) to make things clearer. We do not propose to specify in more detail what constitutes 're-formatting' as this will differ from PIP to PIP depending, for example, on the formats that each accepts, and its operating processes. Essentially we would expect that this arises when the format of disseminated material is different from that in which it was received.

Publication of fees

- 2.11** We proposed that a PIP must publish on its website the fees that it charges for the provision of its services. Respondents principally noted there are a number of different elements involved in pricing decisions that vary across markets, so requiring PIPs to publish fees might be unhelpful to clients in different markets. Some respondents were reluctant to reveal what they considered confidential information to competitors.

Our response: We have amended draft DTR 8.4.5R (DTR 8.4.6R in our final rules) so that a PIP is required to set out clearly the service that it provides and the fees that it charges for them, but we do not prescribe exactly where or how those fees should be set out. This is the same as the approach currently taken in the RIS Criteria.

General notification requirements

- 2.12** Several respondents queried the rationale behind draft DTR 8.4.36R (DTR 8.4.37R in our final rules), which requires a PIP to notify the FCA and its clients immediately if its ability to disseminate or receive information is disrupted. These respondents were concerned that this requirement might delay or obstruct the prompt rectification of the disruption.

Our response: We have amended draft DTR 8.4.36R (DTR 8.4.37R in our final rules) so that it requires a PIP to notify the FCA and its clients of any disruption as soon as possible. We have also deleted the reference in this rule to 'regulatory bodies', on the basis that PIPs will already be obliged to notify clients, which may include regulatory bodies.

Guidance on identifying new and emerging risks

- 2.13** Some respondents were concerned that this broad requirement may lead to increased cost for PIPs in trying to comply with it. (draft DTR 8.4.31G (DTR 8.4.32G in our final rules)).

Our response: The guidance in draft DTR 8.4.31G (DTR 8.4.32G in our final rules) is limited to refer to specific areas of the rules which cover security arrangements. High levels of security around regulated information are crucial to a properly functioning dissemination regime and we believe that the PIPs are best placed to identify developing security risks to their operation. Taking this into account, we do not propose to amend this guidance.

Audit requirements for authorised PIPs

- 2.14** One respondent was concerned our rules required auditors to change the basis on which the audit opinion will be issued (draft DTR8.5.1R).

Our response: Our aim in proposing to amend the wording of the audit rules was to ensure that we received audits in broadly the same format from all PIPs, as we had noted a variety of approaches under the RIS Criteria. However, we do not consider that the substance of the rule has changed – as is the case now (paragraph 4.3 (1) of the RIS Criteria), the rule will require the auditors' opinion whether the RIS has complied with its obligations in the relevant period. So we intend to proceed on the basis set out in chapter 4 of CP12/37.

Forward looking audit report

- 2.15** In chapter 4 we proposed that, to be approved under the new regime, the PIP must send us a forward-looking audit report confirming its ability to meet the continuing obligations of the new regime. Various respondents said such a report would be more onerous to prepare than the traditional backward-looking annual audit report.

Our response: Given that we have removed the requirement for existing PIPs to submit a traditional backward-looking audit report in the period ending in 2013, and that we consider the forward-looking report an integral part of the application process under the new regime, we do not intend to change this rule.

Cost benefit analysis (CBA)

- 2.16** Some respondents challenged the CBA in chapter 4 of CP12/37, which had concluded that our proposals, including the requirement for an annual auditor's report, should not result in increased costs for PIPs.¹

Our response: We found this challenge helpful and re-visited our CBA in light of it. However, given that the proposed rules are based closely on the existing RIS Criteria, and the fact that none of the auditors we spoke to envisaged an increase in fees for PIPs under these proposals, we have concluded that the original CBA was correct.

¹ This excluded the application and annual fees, which we accept are new and additional.

3.

Feedback on CP13/5, chapter 3 (Fees) and CP13/6 (Enforcement Guide)

CP13/5 chapter 3

- 3.1** Chapter 3 of CP13/5 contained proposals on fees for the new PIP regime. The fees proposed were:
- a one-off application fee of £1,500
 - an annual fee of £15,000 per PIP
- 3.2** This chapter summarises the feedback we received on the proposed fees for PIPs and our response to that feedback.

Feedback and FCA response

- 3.3** Some respondents commented that, in their view, the proposed fees were too high.

Our response: As we pointed out in CP13/5, we do not receive government funding and are financed entirely by those we regulate or provide services to. We aim to recover our costs on the basis of the time and resources allocated to our regulatory activities. We envisage that a similar level of input will be required in regulating each PIP's ability to provide the required level of service irrespective of the size of the PIP or number of announcements it processes.

So we believe the fee arrangements outlined in CP13/5 are the most appropriate way for us to recover costs and we are not changing these proposals. However, we will keep these fee arrangements under review against the level of resources required to operate the regime. If necessary we may consult upon any amendments to the fee structure.

- 3.4** We set out final rules on fees for PIPs in Appendix 1 (please refer to Annex D of the Instrument).

CP13/6 chapter 2

- 3.5** CP13/6 incorporated miscellaneous proposed amendments to the FCA's Enforcement Guide (EG). Chapter 2 of CP13/6 contained proposed amendments to Chapter 18 of EG relating to PIPs. However, none of the responses to CP13/6 contained any comments regarding PIPs.
- 3.6** Since the detailed rules in relation to PIPs were still to be finalised, we decided not to include the changes to EG in the Policy Statement relating to CP13/6 (25 March 2013).
- 3.7** Now that we have finalised the detailed rules for PIPs we want to join up all the work in this area and make the outstanding amendments to EG which we consulted on in CP13/6. This chapter summarises the outstanding changes to EG in relation to PIPs that we will be making.

Changes to EG in relation to PIPs

- 3.8** EG will be amended to include a section which reflects the FCA's power to cancel a primary information provider's approval under section 89P of FSMA (as amended). We may decide this on our own initiative and the relevant factors for making this decision will be stated in EG.
- 3.9** This new section will be incorporated in chapter 18 of EG.
- 3.10** We will also amend the title of Chapter 18 to refer to PIPs and the contents section of EG to reflect this change.
- 3.11** We set out the final text of EG in Appendix 1 (please refer to Annex E of the Instrument).

4. Supplementary consultation

- 4.1** In this chapter we address an issue about defining an RIS that arose out of responses to chapter 4 of CP12/37. This was the apparent overlap of the Transparency Directive (TD) and the E-Commerce Directive (ECD). The ECD seeks to establish an area without borders for electronic commerce. It contains provisions which prevent Member States from restricting an incoming 'information society service' (ISS) from providing an information society service in the UK, for example, by making this subject to prior authorisation.
- 4.2** We set out here for consultation our proposals for dealing with this issue in a way which we believe both ensures the integrity of the incoming regime and is consistent with the ECD.

The issue: concerns with the existing definition of RIS

- 4.3** In the draft rules (in Appendix 3 to CP12/37) we proposed amending the Glossary in the FCA Handbook to define a Regulatory Information Service (RIS) as:
- a.** a primary information provider or
 - b.** an incoming information society service that has its establishment in an EEA State other than the United Kingdom and that disseminates regulated information in accordance with the minimum standards set out in article 12 of the TD implementing Directive or
 - c.** a person to whom DTR TP 22 applies, for as long as DTR TP 22 remains in force
- 4.4** Part (b) of this definition relating to Information Society Services was inserted in 2006 at the time that the Transparency Directive was being implemented in the UK. The term 'information society service' comes from the ECD. However, we did not propose any changes to part (b) of the definition in CP12/37.
- 4.5** In short, the definition means that, when it needs to disclose regulated information, an issuer can use either a PIP or an incoming EEA ISS which disseminates information in line with the minimum standards set out in the TD.
- 4.6** Several respondents to CP12/37 expressed the view that providers in part (a) of the definition would be at a disadvantage to providers in part (b), because there would be no certainty that a provider in part (b) was subject to any particular regulatory regime in its home state. Respondents also felt that standards for provision of regulated information could suffer as a result.
- 4.7** As a result, some respondents went further and suggested that we should remove the incoming EEA ISS limb from the Handbook definition of an RIS.

- 4.8** While removing the incoming EEA ISS limb from the definition of an RIS would make it clear that all firms wishing to release regulated information on behalf of issuers in the UK must be approved by the FCA, our obligations under the ECD prevent us from doing so.
- 4.9** However, we did not feel it would be appropriate to leave matters as they currently stand, as that would mean we could not ensure that information was always disseminated in line with the TD.
- 4.10** Where an issuer uses a PIP authorised by the FCA we can have greater confidence that appropriate standards will be met. We can be similarly confident where an issuer uses an incoming EEA ISS approved in another Member State. However, we cannot have the same level of confidence when an issuer uses an incoming EEA ISS that has not been approved in that state.

Our proposed solution

General approach

- 4.11** As the competent authority for the TD in the UK, the primary aim of our regime is to ensure that regulated information is released in the UK in line with the requirements of the TD. So our proposed regime for PIPs covers the key requirements stemming from the TD relating to the timely and secure disclosure of regulated information.
- 4.12** This has to be balanced against the wide-ranging provisions in the ECD dealing with freedom of establishment, which restrict Member States from imposing an authorisation regime on incoming ISS from other Member States. The definition of an ISS is extremely broad and would encompass PIPs.
- 4.13** Our view is that where an issuer uses an incoming EEA ISS which has not been approved in that Member State (MS) as their RIS, we should ask the issuer to provide us with an annual confirmation that the regulated information disseminated by that RIS has in fact been disclosed in line with the minimum standards in the TD.
- 4.14** So we propose to:
- 1.** through the inclusion of LR1.4.11R, remind issuers of their obligations under DTR 6.3 regarding their responsibility for the secure and timely release of regulated information in accordance with their TD obligations;
 - 2.** include amendments to DTR 6.3 to the effect that issuers can release regulated information under the TD by using an RIS which is either:
 - a.** an FCA approved Regulated Information Service (going forward to be known as a PIP); or
 - b.** an incoming ISS approved in another EEA State in accordance with the TD; or
 - c.** an incoming ISS which has not been approved in another EEA State.
 - 3.** require issuers that use an unapproved incoming EEA ISS to take additional independent steps to evidence that their TD obligations have been met.

4.15 Our aim in developing additional independent steps for issuers that use an *unapproved* incoming EEA ISS is to provide a mechanism which ensures that market integrity is protected if this route is chosen. We think this will create a balanced regime for publishing regulated information which ensures that issuers are able to comply with their TD obligations, thus protecting market integrity, but which also gives issuers a range of options through which they can do so, thus promoting competition.

Nature of the additional steps for issuers

4.16 We propose that issuers provide an annual written confirmation to the FCA that all regulated information distributed on their behalf by an RIS that is neither a PIP nor an EEA-approved incoming ISS has been distributed in line with the standards in the TD.

4.17 This confirmation would set out the basis for making the confirmation, including the steps taken to determine its accuracy, and be supported by sufficient records. The FCA would, in addition, be able to request verification from the issuer on an ad hoc basis that specific regulated information was disseminated in accordance with required standards.

4.18 In most cases we would expect the confirmation would be provided by the issuer's audit committee but, depending on the place of incorporation of the issuer and in line with DTR 7.1.1, it might be provided by another equivalent body.

4.19 An issuer would only be able to provide the confirmation where it had systems in place which both ensured that all its regulatory communications complied with the TD and recorded that fact.

4.20 The fact that confirmations would need to be supported by evidence, and the fact that the confirmation would be provided by the audit committee (or, in the case of issuers incorporated overseas, an equivalent body), should help encourage a strong culture of compliance throughout the company.

4.21 We consider these steps to be particularly effective as they impose regulatory responsibilities that can only be discharged by senior management. We also think that it would not impose a disproportionate compliance burden on issuers to prove they have complied with TD standards when they have chosen not to use a PIP or an EEA-approved incoming ISS. Additionally, because we would only receive one confirmation per year from issuers that disclose regulated information using an unapproved incoming ISS, it would not create a disproportionate resource burden on the FCA.

4.22 We also think this approach is likely to be compatible with the FCA's competition duty as it gives flexibility to issuers to choose the arrangement they find most convenient, provided that they comply with the TD.

4.23 We are opening up this specific issue to consultation. We would be particularly interested in any responses from issuers to these proposals.

4.24 So our stakeholders can understand the context of our proposals in relation to this issue, we have included our draft rules alongside the final rules in the Instrument set out in Appendix 1. The draft rules for consultation are LR1.4.11R, DTR 6.3.3AR, DTR 6.3.3BR and DTR 6.3.3CG. We are also proposing a new glossary term 'EEA approved incoming information society service'.

Q1: Do you agree that these are appropriate additional steps to require of issuers which choose not to use either a PIP or an EEA approved ISS when disseminating regulated information?

Annex 1: Cost benefit analysis

1. We believe that our proposed approach, which allows issuers to choose one of three routes in releasing regulated information, is proportionate and supports the FCA in meeting its market integrity objective by ensuring that regulated information is being disclosed to the market in line with minimum pan-European standards. Regulated information includes price sensitive announcements, financial results, and other important matters. It is crucial that appropriate regulatory standards are upheld when disseminating this information.
2. All issuers we are aware of currently use a regulated information service (RIS) that is approved either by the FCA or in another EU Member State. So these issuers should not be affected by these proposals.
3. If an issuer did wish to use an RIS that was not approved either by the FCA or in another EU Member State, these proposals would not alter their substantive costs of actually complying with the Transparency Directive but they would incur some additional costs in annually attesting to the FCA that they had met its requirements. We expect these additional costs to be, at the upper end (based on volumes of regulatory announcements made), around £19,300 per issuer per year. Since no issuers would currently be affected and we are not aware of any that are likely to switch to an unapproved RIS, we believe that the aggregate cost to the market is likely to be negligible and, in any event, proportionate to the benefits of ensuring timely and appropriate dissemination of information to the market.
4. In line with our duty under section 138K FSMA, we believe that the impact of the proposals will not be significantly different on mutual societies that are authorised persons, compared to other authorised persons.

Annex 2: Compatibility statement

Compatibility with the general duties of the Financial Conduct Authority

1. This Annex explains the FCA's reasons for concluding that our proposals in this consultation are compatible with certain requirements under the Financial Services and Markets Act 2000 (FSMA) as amended by the Financial Services Act 2012.
2. When consulting on new rules, we are required by section 138I(2)(d) FSMA to explain why we believe making the proposed rules is compatible with our strategic objectives, advances one or more of our operational objectives, and has regard to the regulatory principles in section 3B FSMA. We are also required by section 138K(2) FSMA to state whether the proposed rules will have a significantly different impact on mutual societies as opposed to other authorised persons.
3. This Annex also sets out our view of how the proposed rules are compatible with the duty to discharge the FCA's general functions (which include rule-making) in a way which promotes effective competition in the interests of consumers (section 1B(4)). This duty applies in so far as promoting competition is compatible with advancing our consumer protection and/or integrity objectives.
4. This Annex includes our assessment of the equality and diversity implications of these proposals.
5. It meets the FCA's competition duty and we believe the measures are proportionate.

The FCA's objectives and regulatory principles

6. The proposals set out in this consultation are compatible with our strategic objective of ensuring that the relevant markets function well and are intended to advance our consumer protection and market integrity objectives by aiding the effective dissemination of regulated information to the market.
7. In preparing the proposals set out in this consultation we have had due regard to the regulatory principles in section 3B of FSMA.

The need to use our resources in the most efficient and economic way

We believe that the proposals represent the most efficient and economic way of using our resources in regard to this matter.

The principle that a burden or restriction should be proportionate to the benefits

We have conducted an internal Cost Benefit Analysis of our proposals and have concluded that any burden or restriction is proportionate to the expected benefits.

The desirability of sustainable growth in the economy of the United Kingdom in the medium or long term

We do not consider that our proposals undermine this principle.

The general principle that consumers should take responsibility for their decisions

We do not consider that our proposals undermine this principle.

The responsibilities of senior management

Our proposals clearly set out our requirements in relation to senior management.

The desirability of recognising differences in the nature of, and objectives of, businesses carried on by different persons

We do not consider that our proposals undermine this principle.

The desirability of publishing information relating to persons or requiring persons to publish information

We believe that our proposals facilitate the publication and distribution of regulated information in accordance with the Transparency Directive.

The principle that we should exercise our functions as transparently as possible

We consider that our proposed rules will set out in a clear, transparent manner the requirements placed on listed companies which request the dissemination of regulated information by regulatory information services.

Expected effect on mutual societies

8. In line with our duty under section 138K FSMA, we believe that the impact of the proposals will not be significantly different on mutual societies that are authorised persons, compared to other authorised persons.

Compatibility with the duty to promote effective competition in the interests of consumers

9. In preparing the proposals as set out in this consultation, we have considered our duty to promote effective competition in the interests of consumers. We consider that the proposals meet our competition duty and we believe the measures are proportionate.

Equality and diversity

10. We are required under the Equality Act 2010 to 'have due regard' to the need to eliminate discrimination and to promote equality of opportunity in carrying out our policies, services and functions. We have concluded that our policy does not discriminate on the grounds of gender, disability, race, religion/belief, sexual orientation, age, pregnancy/maternity, gender reassignment or marriage/civil partnership.

Annex 3: List of questions

- Q1:** Do you agree that these are appropriate additional steps to require of issuers which choose not to use either a PIP or an EEA approved ISS when disseminating regulated information?

Annex 4: List of non-confidential respondents

The Financial Services Practitioner Panel

Business Wire

PR Newswire

EQS Group AG

Investor Relations Society

Thomson Reuters

Appendix 1: Final Rules – including specified draft rules for supplementary consultation

LISTING RULES AND DISCLOSURE AND TRANSPARENCY RULES (PRIMARY INFORMATION PROVIDERS) INSTRUMENT 2013

Powers exercised by the Financial Conduct Authority

- A. The Financial Conduct Authority makes this instrument in the exercise of the following powers and related provisions in the Financial Services and Markets Act 2000 (“the Act”):
- (1) section 73A (Part 6 Rules);
 - (2) section 89P (Primary Information Providers);
 - (3) section 137A (General rule-making power);
 - (4) section 137T (General supplementary powers);
 - (5) section 139A (Guidance); and
 - (6) paragraph 23 (Fees) of Part 3 (Penalties and Fees) of Schedule 1ZA (The Financial Conduct Authority) of the Act.

Commencement

- B. This instrument comes into force on [x] 2013.

Amendments to the Handbook

- C. The modules of the FCA’s Handbook of rules and guidance listed in column (1) below are amended in accordance with the Annexes to this instrument listed in column (2).

(1)	(2)
Glossary of definitions	Annex A
Fees manual (FEES)	Annex B
Listing Rules sourcebook (LR)	Annex C
Disclosure Rules and Transparency Rules sourcebook (DTR)	Annex D

Amendments to material outside the Handbook

- D. The Enforcement Guide (EG) is amended in accordance with Annex E to this instrument.

Notes

- E. In Annex D (DTR) to this instrument, the “notes” (indicated by “**Note:**”) are included for the convenience of readers but do not form part of the legislative text.

Citation

- F. This instrument may be cited as the Listing Rules and Disclosure and Transparency Rules (Primary Information Providers) Instrument 2013.

By order of the Board of the Financial Conduct Authority
[x] 2013

Annex A

Amendments to the Glossary of definitions

In this Annex, underlining indicates new text and striking through indicates deleted text, unless otherwise stated.

Insert the following new definitions in the appropriate alphabetical position. The text is not underlined.

<i>EEA approved incoming information society service</i>	an incoming <i>information society service</i> that has its <i>establishment</i> in an <i>EEA State</i> other than the <i>United Kingdom</i> which has been approved in that state as meeting the standards set out in article 21 of the <i>TD</i> and article 12 of the <i>TD implementing directive</i> .
<i>FCA short name</i>	the abbreviated name allocated to an <i>issuer</i> or organisation by the <i>FCA</i> .
<i>headline information</i>	the headline codes and headline categories for use with the announcement of <i>regulated information</i> that are listed in <i>DTR 8 Annex 2R</i> .
<i>list of primary information providers</i>	the list of <i>primary information providers</i> maintained by the <i>FCA</i> in accordance with section 89P(4)(a) of the <i>Act</i> .
<i>media operator</i>	a news vendor that receives <i>regulated information</i> from a <i>regulatory information service</i> and then disseminates that information to the public as soon as possible.

Amend the following definitions as shown.

<i>DTR</i>	the Disclosure Rules and Transparency Rules sourcebook containing the <i>disclosure rules</i> , <i>transparency rules</i> and , <i>corporate governance rules</i> <u>and the rules relating to primary information providers</u> .
<i>Regulated Information Service</i>	a Regulated Information Service that is approved by the FCA as meeting the Criteria for Regulated Information Services and that is on the list of Regulated Information Services maintained by the FCA.
<i>regulatory body</i>	(1) <u>(except in DTR)</u> any authority, body or <i>person</i> having, or who has had, responsibility for the supervision or regulation of any <i>regulated activities</i> or other financial services, whether in the <i>United Kingdom</i> or overseas. (2) <u>(in DTR)</u> an organisation listed in <i>DTR 8 Annex 1R</i> .

*regulatory
information service
or RIS*

~~either:~~

(a) a ~~Regulated Information Service~~ primary information provider;
or

(b) an incoming *information society service* that has its *establishment* in an *EEA State* other than the *United Kingdom* and that disseminates *regulated information* in accordance with the minimum standards set out in ~~article 12 of the *TD implementing Directive*~~; or

(c) a *person* to whom *DTR TP 22* applies, for as long as *DTR TP 22* remains in force.

Annex B

Amendments to the Fees manual (FEES)

In this Annex, underlining indicates new text.

3.2 Obligation to pay fees

...

3.2.7 R Table of application and vetting fees payable to the FCA

(1) Fee payer	(2) Fee payable	Due date
...		
<u>(zr) An applicant for approval as a <i>primary information provider</i></u>	<u>1,500</u>	<u>On or before the application for approval is made.</u>

...

4.2 Obligation to pay periodic fees

...

4.2.11 R Table of periodic fees payable to the FCA

1 Fee payer	2 Fee payable	3 Due date	4 Events occurring during the period leading to modified periodic fee
...			
All non-listed <i>issuers</i> (in <i>DTR</i>) of <i>shares</i> , depositary receipts and <i>securitised derivatives</i>	<i>FEES</i> 4 Annex 8R, <u>except for Table 3</u>	Within 30 <i>days</i> of the date of the invoice	Non-listed <i>issuer</i> (in <i>DTR</i>) becomes subject to <i>disclosure rules</i> and <i>transparency rules</i>
<u>Any <i>primary information provider</i></u>	<u><i>FEES</i> 4 Annex 8R, Table 3</u>	<u>Within 30 <i>days</i> of the date of the invoice</u>	<u>A person is approved as a <i>primary information provider</i></u>

...			
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...

4 Annex 8R Periodic fees in relation to the disclosure rules and transparency rules for the period 1 April 2013 to 31 March 2014

...

<u>Table 3 – Primary information providers</u>
<u>15,000</u>

Annex C

Amendments to the Listing Rules sourcebook (LR)

In this Annex, underlining indicates new text and striking through indicates deleted text, unless otherwise stated.

1.4 Miscellaneous

...

Dissemination of regulated information

- 1.4.11 R Where a *listing rule* requires an *issuer* or *person* to use the services of an *RIS*, the *issuer* or *person* must comply with the provisions of *DTR 6.3*. *DTR 6.3* sets out requirements that an *issuer* or *person* must comply with in relation to the dissemination of *regulated information*.

Appendix 1 Relevant definitions

Insert the following new definitions in the appropriate alphabetical position. The text is not underlined.

E-Commerce Directive the Council Directive of 8 June 2002 on legal aspects of *information society services*, in particular electronic commerce, in the Internal Market (No 2000/31/EC).

information society service an information society service, as defined by article 2(a) of the *E-Commerce Directive* and article 1(2) of the Technical Standards and Regulations Directive (98/34/EC), which is in summary any service normally provided for remuneration, at a distance, by means of electronic equipment for the processing (including the digital compression) and storage of data at the individual request of a service recipient.

primary information provider a *person* approved by the *FCA* under section 89P of the *Act*.

Amend the following definitions as shown.

DTR the Disclosure Rules and Transparency Rules sourcebook containing the *disclosure rules*, *transparency rules* ~~and~~, *corporate governance rules* and the rules relating to *primary information providers*.

regulatory ~~a Regulatory Information Service that is approved by the *FCA* as meeting~~

information service or RIS

~~the Primary Information Provider criteria and that is on the list of Regulatory Information Services maintained by the FCA.~~

(a) a primary information provider; or

(b) an incoming information society service that has its establishment in an EEA State other than the United Kingdom and that disseminates regulated information in accordance with the minimum standards set out in article 12 of the TD implementing Directive; or

(c) a person to whom DTR TP 22 applies, for as long as DTR TP 22 remains in force.

...

Appendix 3 List of Regulatory Information Services [deleted]

~~App 3.1.1 R The following are approved *Regulatory Information Services*:~~

~~Business Wire Regulatory Disclosure provided by Business Wire~~

~~FirstSight provided by Cision~~

~~Announce provided by Hugin ASA~~

~~News Release Express provided by Marketwire~~

~~PR Newswire Disclose provided by PRNewswire~~

~~RNS provided by the London Stock Exchange~~

~~marCo – Market Communication Office provided by Tensid Ltd of Switzerland~~

~~DGAP IR.COCKPIT provided by EquityStory AG~~

Annex D

Amendments to the Disclosure Rules and Transparency Rules sourcebook (DTR)

In this Annex, underlining indicates new text and striking through indicates deleted text, unless otherwise stated.

After DTR 1B insert the following new chapter. The text is not underlined.

1C Introduction (Primary information providers)

1C.1 Application and purpose (Primary information providers)

1C.1.1 R The requirements in *DTR 8* apply to a *primary information provider* and a *person* that is applying for approval as a *primary information provider*.

1C.1.2 G The purpose of the requirements in *DTR 8* is to make the *Part 6 rules* permitted under section 89P of the *Act* in relation to *primary information providers* and *persons* applying for approval as *primary information providers*.

[**Note:** When exercising its functions under Part VI of the *Act*, the *FCA* may use the name: the UK Listing Authority.]

[**Note:** Other parts of the *Handbook* that may also be relevant to *primary information providers* include *DEPP* (Decision Procedure and Penalties manual) and Chapter 9 of *SUP* (Supervision manual). *EG* (Enforcement Guide) is also relevant.]

1C.2 Modifying rules and consulting the FCA

Modifying or dispensing with rules

1C.2.1 R (1) The *FCA* may dispense with, or modify, a requirement in *DTR 8* in such cases and by reference to such circumstances as it considers appropriate (subject to the *Act*).

(2) A dispensation or modification may be either unconditional or subject to specified conditions.

(3) If a *primary information provider* or a *person* that is applying for approval as a *primary information provider* has applied for, or been granted, a dispensation or modification, it must notify the *FCA* immediately it becomes aware of any matter which is material to the relevance or appropriateness of the dispensation or modification.

(4) The *FCA* may revoke or modify a dispensation or modification.

1C.2.2 R (1) An application to the *FCA* to dispense with or modify a requirement in

DTR 8 must be in writing.

- (2) The application must:
- (a) contain a clear explanation of why the dispensation or modification is requested;
 - (b) include details of any special requirements, for example, the date by which the dispensation or modification is required;
 - (c) contain all relevant information that should reasonably be brought to the *FCA's* attention;
 - (d) contain any statement or information that is required by *DTR 8* to be included for a specific type of dispensation or modification; and
 - (e) include copies of all documents relevant to the application.

- 1C.2.3 R An application to dispense with or modify a requirement in *DTR 8* must ordinarily be made at least five *business days* before the proposed dispensation or modification is to take effect.

Early consultation with *FCA*

- 1C.2.4 R A *primary information provider* or a *person* applying for approval as a *primary information provider* must consult with the *FCA* at the earliest possible stage if they:
- (1) are in doubt about how a requirement in *DTR 8* applies in a particular situation; or
 - (2) consider that it may be necessary for the *FCA* to dispense with or modify a requirement in *DTR 8*.
- 1C.2.5 R Where a requirement in *DTR 8* refers to consultation with the *FCA*, submissions must be made in writing other than in circumstances of exceptional urgency.

Address for correspondence

Note: The *FCA's* address for correspondence in relation to *DTR 8* is:

Primary Market Monitoring
 Markets Division
 The Financial Conduct Authority
 25 The North Colonnade
 Canary Wharf
 London
 E14 5HS

Fax: 0207 066 8349.

Amend the following as shown.

6.3 Dissemination of information

Application

...

6.3.2 R ~~An issuer or person must disclose regulated information~~ regulated information in the manner set out in *DTR 6.3.3R* to *DTR 6.3.8R*. [Note: article 21(1) of the *TD*]

...

6.3.3A R Where an issuer or person uses an RIS other than:

- (1) a primary information provider; or
- (2) an EEA approved incoming information society service; or
- (3) a person to whom DTR TP 22 applies, for as long as DTR TP 22 remains in force;

the issuer or person must comply with DTR 6.3.3BR.

6.3.3B R (1) An issuer or person to which this rule applies must provide an annual written confirmation to the FCA that all regulated information disseminated by an RIS not specified in DTR 6.3.3R(1) to (3) in the previous financial year was disseminated in accordance with the minimum standards contained in DTR 6.3.4R to DTR 6.3.8R.

(2) The confirmation required by DTR 6.3.3BR(1) must:

- (a) be provided by:
 - (i) in the case of an issuer, the audit committee or the body referred to in DTR 7.1.1R; or
 - (ii) in the case of a person which is not an issuer but is a body corporate, the audit committee or the board of directors; or
 - (iii) in the case of an person which is not an issuer or a body corporate, a person with corresponding powers to a director;
- (b) set out the basis for making the confirmation, including the steps taken to determine its accuracy; and
- (c) be supported by records which are:

- (i) sufficient to reasonably demonstrate the basis for making the confirmation; and
- (ii) capable of timely retrieval.

Address for correspondence

Note: The *FCA*'s address for correspondence in relation to *DTR* 6.3 is:

Primary Market Monitoring
Markets Division
The Financial Conduct Authority
25 The North Colonnade
Canary Wharf
London
E14 5HS

Fax: 020 7066 8349

6.3.3C **G** In addition to the annual confirmation referred to in *DTR* 6.3.3BR, the *FCA* may request information from an *issuer* or *person* under section 89H of the *Act* on an ad hoc basis to verify that *regulated information* disseminated by an *RIS* not specified in *DTR* 6.3.3R (1) to (3) has been disseminated in accordance with *DTR* 6.3.4R to *DTR* 6.3.8R.

...

After *DTR* 7 insert the following new chapter. The text is not underlined.

8 Primary Information Providers

8.1 Application

Primary information providers and applicants

8.1.1 R This chapter applies to a *primary information provider* and a *person* that is applying for approval as a *primary information provider*.

List of primary information providers

8.1.2 R The *FCA* will maintain a *list of primary information providers* on its website.

8.2 Approval as a primary information provider

Application for approval as a primary information provider

- 8.2.1 R A *person* wishing to be included on the *list of primary information providers*, must apply to the *FCA* for approval as a *primary information provider* by submitting the following to the *FCA*:
- (1) the name, registered office address, registered number and the names and addresses of the directors and company secretary of the *person* applying for approval and, where applicable, the corporate group to which the *person* belongs;
 - (2) details of all the arrangements that it has established or it intends to establish with *media operators* in the *United Kingdom* and other *EEA States* for the dissemination of *regulated information*;
 - (3) names, addresses, dates of birth and, where applicable, national insurance numbers, of its senior management;
 - (4) details of the fees it proposes to charge *persons* in relation to the dissemination of *regulated information*;
 - (5) a report by a reporting accountant qualified to act as an auditor confirming that in their opinion the *person* applying for approval as a *primary information provider* will be capable of satisfying the continuing obligations set out in *DTR 8.4*; and
 - (6) the application fee set out in *FEES 3*.
- 8.2.2 G The report provided under *DTR 8.2.1R(5)* should state:
- (1) the opinion of the reporting accountant qualified to act as auditor as to the matters set out in *DTR 8.4*;
 - (2) the significant areas tested in reaching that opinion; and
 - (3) a summary of the work undertaken to address these areas and reach that opinion.
- 8.2.3 R A *person* wishing to be included on the *list of primary information providers* must also submit to the *FCA*:
- (1) all additional documents, explanations and information that the *FCA* may reasonably require to decide whether to grant an application for approval as a *primary information provider*; and
 - (2) verification of any documents, explanations and information provided to the *FCA* in such a manner as the *FCA* may reasonably require under (1).
- 8.2.4 G When considering an application for approval as a *primary information provider* the *FCA* may carry out any enquiries and request any further information which it considers appropriate, including consulting other regulators.

[**Note:** The decision-making procedures that the *FCA* will follow when it considers whether to refuse an application for approval as a *primary information provider* are set out in *DEPP*.]

- 8.2.5 G Approval as a *primary information provider* becomes effective when the *person* is informed in writing by the *FCA*. The *FCA* will as soon as possible add the name of the *person* who has been approved as a *primary information provider* to the *list of primary information providers*.

Restrictions or limitations on approval

- 8.2.6 R The *FCA* may impose restrictions or limitations on the services a *primary information provider* may provide at the time of granting a *primary information provider's* approval.

[**Note:** A *statutory notice* may be required under section 89P of the *Act*. Where this is the case, the procedure for giving a *statutory notice* is set out in *DEPP*.]

8.3 Criteria for approval as a primary information provider

- 8.3.1 R The *FCA* will approve a *person* as a *primary information provider* only if it is satisfied that the *person* will be able to:
- (1) disseminate *regulated information* in a manner ensuring fast access to *regulated information* on a non-discriminatory basis; and
 - (2) satisfy the continuing obligations set out in *DTR* 8.4.
- 8.3.2 G In determining whether a *person* applying for approval as a *primary information provider* satisfies the requirements in *DTR* 8.3.1R, the *FCA* will consider, amongst other things, the report of the reporting accountant provided under *DTR* 8.2.1R(5).

8.4 Continuing obligations

Arrangements with media operators

- 8.4.1 R A *primary information provider* must establish and maintain adequate arrangements with *media operators* in the *United Kingdom* and other *EEA States* for the dissemination of *regulated information*.
- 8.4.2 G The purpose of *DTR* 8.4.1R is to ensure that a *primary information provider* can disseminate *regulated information* to as wide a public as possible, as close to simultaneously as possible, in the *United Kingdom* and other *EEA States*. In considering whether a *primary information provider* has satisfied the requirements in *DTR* 8.4.1R, the *FCA* will consider the number and nature of arrangements that the *primary information provider* has with *media*

operators.

Handling regulated information: timing and prioritisation

- 8.4.3 R Unless the *regulated information* is embargoed by the *person* who submitted it or by the *FCA*, a *primary information provider* must disseminate all *regulated information* that it receives as soon as possible.
- 8.4.4 G In assessing compliance with *DTR 8.4.3R*, the *FCA* will have regard to whether the *primary information provider* has disseminated at least 95% of all *regulated information* which did not require reformatting within 5 minutes of receipt.
- 8.4.5 R A *primary information provider* must prioritise the order of dissemination of pending *regulated information* according to the *headline information*, except that a *primary information provider* must prioritise the dissemination of *regulated information* that is submitted by the *FCA* if the *FCA* requests it.

Handling regulated information: fees

- 8.4.6 R A *primary information provider* must set out clearly:
- (1) the services it provides in relation to the dissemination of *regulated information*; and
 - (2) the fees it charges for the provision of those services.
- 8.4.7 R A *primary information provider* must not charge a *regulatory body* listed in *DTR 8 Annex 1R* for the dissemination of *regulated information*.

Handling regulated information: operational hours and support

- 8.4.8 R A *primary information provider* must:
- (1) disseminate *regulated information* at least between the hours of 7:00 am and 6:30 pm on any *business day*;
 - (2) be able to receive *regulated information* at all times;
 - (3) provide service support at least between the hours of 7.00 am and 6.30 pm on any *business day* to:
 - (a) any *person* who has requested the dissemination of *regulated information*; and
 - (b) any *media operator* with whom the *primary information provider* has an arrangement for the dissemination of *regulated information*; and
 - (4) have staff available to assist the *FCA* exercise its functions in relation to the dissemination of *regulated information* by the *primary information provider* at least between the hours of 7.00 am and 6.30

pm on any *business day*.

Handling regulated information: business continuity

- 8.4.9 R A *primary information provider* must ensure that if circumstances arise which prevent it from disseminating and continuously receiving *regulated information*, it has adequate arrangements in place to ensure that it can continue to satisfy its obligations as a *primary information provider* with minimal disruption.
- 8.4.10 G In considering whether a *primary information provider* satisfies the requirements of *DTR 8.4.9R*, the *FCA* will consider, among other things, whether the *primary information provider* has arrangements in place for an alternative *primary information provider* to receive and disseminate *regulated information* on its behalf.

Handling regulated information: security

- 8.4.11 R A *primary information provider* must:
- (1) ensure that *regulated information* is handled securely; and
 - (2) provide *persons* wishing to disseminate *regulated information* with a secure means of communicating *regulated information* to the *primary information provider*.
- 8.4.12 R A *primary information provider* must have arrangements in place to prevent the misuse of *regulated information* by any of its staff.

Handling regulated information: amendments

- 8.4.13 R A *primary information provider* must not make substantive changes to the *regulated information* it receives, unless requested by the *issuer* or other organisation who submitted the *regulated information* for dissemination.
- 8.4.14 G In determining whether a *primary information provider* has satisfied the requirement in *DTR 8.4.13R*, the *FCA* will consider whether the changes made by the *primary information provider* would be likely to affect the import of the *regulated information*.

Handling regulated information: record keeping

- 8.4.15 R A *primary information provider* must record the following information for each announcement of *regulated information* it disseminates:
- (1) the name of any *person* who communicates *regulated information* on behalf of an *issuer* or other organisation to the *primary information provider*;
 - (2) the name of the *issuer* or organisation on whose behalf the *regulated information* is communicated;

- (3) the security validation details of the *issuer* or organisation;
- (4) the date and time the *regulated information* is received by the *primary information provider*;
- (5) details of the form in which the *regulated information* is received by the *primary information provider*;
- (6) if applicable, details of any embargo placed by the *issuer*, organisation or the *FCA* on the *regulated information*;
- (7) details of all *persons* who are authorised by the *primary information provider* to have access to the *regulated information*;
- (8) if applicable, details of, and reasons for, any substantive change made to the *regulated information* in accordance with *DTR* 8.4.13R; and
- (9) the date and time the *primary information provider* disseminates the *regulated information* to the *media operator*.

- 8.4.16 R A *primary information provider* must retain the records required under *DTR* 8.4.15R for 3 years.
- 8.4.17 R Records must be capable of timely retrieval.
- 8.4.18 R A *primary information provider* that has had its approval cancelled should continue to comply with its record keeping obligations in *DTR* 8.4.16R to *DTR* 8.4.17R.

Receiving regulated information: validation of submissions

- 8.4.19 R A *primary information provider* must ensure that there is certainty about the:
- (1) identity of any *person* who submits *regulated information* on behalf of an *issuer* or organisation to the *primary information provider*;
 - (2) authority of the *person* to submit the *regulated information* on behalf of the *issuer* or organisation; and
 - (3) identity of the *issuer* or organisation on whose behalf the *regulated information* is submitted.
- 8.4.20 R A *primary information provider* must ensure that there is no significant risk of corruption of *regulated information* during its submission, handling and dissemination.

Disseminating regulated information: scope

- 8.4.21 R A *primary information provider* must disseminate *regulated information* that has been submitted by:
- (1) an *issuer*; or

- (2) any *person* acting as agent for an *issuer*; or
- (3) any *regulatory body* listed in DTR 8 Annex 1R; or
- (4) any other *person* required to submit *regulated information*.

Disseminating regulated information: format

8.4.22 R A *primary information provider* must disseminate *regulated information* to any *media operator* with whom it has an arrangement in place for the dissemination of *regulated information* in:

- (1) unedited full text as submitted to the *primary information provider*; and
- (2) an industry standard format.

8.4.23 R *Regulated information* disseminated to a *media operator* by a *primary information provider* must contain the following:

- (1) identification of the information as *regulated information* which has been disseminated by a *primary information provider*;
- (2) the unique identification number for the item of *regulated information*;
- (3) the sequence number of the *regulated information*;
- (4) a clear indication of the start of the *regulated information*;
- (5) the name of the *issuer* or organisation concerned;
- (6) the *FCA short name* of the *issuer* or organisation concerned;
- (7) the *headline information* relevant to the *regulated information*;
- (8) a headline capturing the subject matter of the *regulated information*;
- (9) the time and date the *regulated information* was submitted to the *primary information provider*;
- (10) the time and date the *regulated information* was disseminated by the *primary information provider*; and
- (11) a clear indication of the end of the *regulated information*.

Disseminating regulated information: use of headline information

8.4.24 R A *primary information provider* must add the appropriate *headline information* to *regulated information* it disseminates.

8.4.25 R DTR 8.4.24R does not apply when a *primary information provider*

disseminates information it has received from a *recognised investment exchange*.

Disseminating regulated information: dissemination to media operators

- 8.4.26 R A *primary information provider* must ensure that all *regulated information* it receives is disseminated successfully to all *media operators* with whom it has arrangements for the dissemination of *regulated information*.
- 8.4.27 R If a *primary information provider* becomes aware that the dissemination of *regulated information* has failed, it must remedy the failure as soon as possible.

Disseminating regulated information: embargo of regulated information

- 8.4.28 R If requested by the *person* who has submitted the *regulated information* for dissemination, a *primary information provider* must place an embargo on the *regulated information* for release at the date and time specified by the *person* who submitted the *regulated information*.
- 8.4.29 R If requested by the *FCA*, a *primary information provider* must:
- (1) place an embargo on *regulated information*; or
 - (2) cancel any embargo placed on *regulated information* by the *person* that has submitted the *regulated information* and disseminate the *regulated information*; or
 - (3) cancel any embargo placed on *regulated information* by the *FCA* and disseminate the *regulated information*.

Disseminating regulated information: provision to the FCA

- 8.4.30 R A *primary information provider* must supply free of charge discrete access to *regulated information*, exclusive of all other information, to the *FCA* or an agent appointed by the *FCA* to act on its behalf.

Systems and controls

- 8.4.31 R A *primary information provider* must have effective systems and controls in place to ensure that it can comply with its continuing obligations in *DTR* 8.4.1R to *DTR* 8.4.30R.
- 8.4.32 G In considering whether a *primary information provider* satisfies the requirements of *DTR* 8.4.31R, the *FCA* will consider, among other things, whether the *primary information provider* has in place appropriate measures to identify new and emerging risks which would be likely to prevent its compliance with *DTR* 8.4.11R, *DTR* 8.4.19R or *DTR* 8.4.20R.

Relations with the FCA

- 8.4.33 R A *primary information provider* must at all times:

- (1) deal with the *FCA* in an open and cooperative manner; and
- (2) deal with all enquiries raised by the *FCA* as soon as possible.

General notifications

- 8.4.34 R A *primary information provider* must notify the *FCA* immediately if:
- (1) there is any change to the names and contact details of staff who are available to assist the *FCA* exercise its functions in relation to the dissemination of *regulated information* by the *primary information provider*; or
 - (2) any contractual arrangement between the *primary information provider* and a *media operator* regarding the dissemination of *regulated information* is terminated; or
 - (3) any changes are proposed to the fees the *primary information provider* charges in relation to the dissemination of *regulated information*; or
 - (4) it becomes aware of any matter which in its reasonable opinion would be likely to affect its ability to satisfy its obligations in *DTR* 8.4.
- 8.4.35 R If a *primary information provider* learns of a breach of its security it must:
- (1) notify the *FCA* immediately; and
 - (2) provide the *FCA* as soon as possible with a report containing details of the security breach and the steps taken to rectify it.
- 8.4.36 R A *primary information provider* must notify the *FCA* and its clients as soon as possible if its ability to disseminate or continuously receive *regulated information* is disrupted.
- 8.4.37 R If a *primary information provider* has its approval cancelled it must immediately notify its clients, *regulatory bodies* and any *media operator* with whom it has an arrangement for the dissemination of *regulated information* that it is no longer approved as a *primary information provider*.
- 8.4.38 R
- (1) Notifications must be made in writing.
 - (2) Notifications to the *FCA* must be sent to the following address:
Primary Market Monitoring
Markets Division
The Financial Conduct Authority
25 The North Colonnade
Canary Wharf
London
E14 5HS

Fax: 020 7066 8349

Annual fee

- 8.4.39 R A *primary information provider* must pay the annual fee set out in *FEES 4* in order to remain on the *list of primary information providers*.

8.5 Supervision of primary information providers

Annual report

- 8.5.1 R A *primary information provider* must submit to the *FCA* an annual report prepared by a reporting accountant qualified to act as auditor which states that the *primary information provider* has satisfied its continuing obligations in *DTR 8.4* in the preceding 12 months.
- 8.5.2 G The annual report provided under *DTR 8.5.1R* should state:
- (1) the opinion of the reporting accountant qualified to act as auditor as to the matters set out in *DTR 8.5.1R*;
 - (2) the significant areas tested in reaching that opinion; and
 - (3) a summary of the work undertaken to address these areas and reach that opinion.
- 8.5.3 R The annual report must be sent to the *FCA* within 3 months of the anniversary of the date of the *primary information provider's* approval as a *primary information provider*.

Requirement to provide information

- 8.5.4 R
- (1) The *FCA* may require a *primary information provider* to provide specified information or specified documents to the *FCA*.
 - (2) The *primary information provider* must as soon as practicable provide to the *FCA* any information or documents it has been required to provide under (1).
 - (3) This rule applies only to information or documents reasonably required by the *FCA* in connection with the performance of its functions in relation to a *primary information provider*.

Restrictions or limitations on approval

- 8.5.5 R The *FCA* may impose restrictions or limitations on the services a *primary information provider* can provide at any time following the grant of a *primary information provider's* approval.
- 8.5.6 G Situations when the *FCA* may impose restrictions or limitations on the

services a *primary information provider* can provide include (but are not limited to) where it appears to the *FCA* that:

- (1) the *primary information provider's* ability to satisfy its obligations in *DTR* 8.4 would be likely to be compromised; or
- (2) the *primary information provider* is proposing to make changes to its systems and controls or operations which would be likely to prevent it from satisfying any of its obligations in *DTR* 8.4; or
- (3) the *primary information provider* is proposing to make changes to the services offered or fees charged which would be likely to prevent it from satisfying its obligation in *DTR* 8.3.1R(1).

[**Note:** A *statutory notice* may be required under section 89P of the *Act*. Where this is the case, the procedure for giving a *statutory notice* is set out in *DEPP*.]

Discipline of primary information providers

- 8.5.7 G The decision-making procedures that the *FCA* will follow when it uses its disciplinary powers in relation to a *primary information provider* are set out in *DEPP*.

Suspension of a primary information provider's approval at the primary information provider's request

- 8.5.8 R A request by a *primary information provider* for its approval as a *primary information provider* to be suspended must be in writing and must include:
- (1) the *primary information provider's* name;
 - (2) a clear explanation of the background and reasons for the request;
 - (3) the date on which the *primary information provider* requests the suspension to take effect; and
 - (4) the name and contact details of the *person* at the *primary information provider* with whom the *FCA* should liaise in relation to the request.
- 8.5.9 G A *primary information provider* may withdraw its request at any time before the suspension takes effect.

Cancellation of a primary information provider's approval at the primary information provider's request

- 8.5.10 R A request by a *primary information provider* for its approval as a *primary information provider* to be cancelled must be in writing and must include:
- (1) the *primary information provider's* name;
 - (2) a clear explanation of the background and reasons for the request;

- (3) the date on which the *primary information provider* requests the cancellation to take effect; and
- (4) the name and contact details of the *person* at the *primary information provider* with whom the *FCA* should liaise in relation to the request.

8.5.11 G A *primary information provider* may withdraw its request at any time before the cancellation takes effect.

Primary information providers: advancing the *FCA*'s operational objectives

8.5.12 G The *FCA* may impose restrictions or limitations on the services a *primary information provider* can provide or suspend a *primary information provider's* approval if the *FCA* considers it desirable to do so in order to advance one or more of its *operational objectives*.

[**Note:** A *statutory notice* may be required under section 89V of the *Act*. Where this is the case, the procedure for giving a *statutory notice* is set out in *DEPP*.]

8 Annex 1R List of regulatory bodies

(1)	the Financial Conduct Authority
(2)	the Panel on Takeovers and Mergers
(3)	the Competition Commission
(4)	the Civil Aviation Authority
(5)	the Department for Business, Innovation and Skills
(6)	the Environment Agency
(7)	the Gambling Commission
(8)	the Prudential Regulation Authority
(9)	the Office of the Gas and Electricity Markets
(10)	the Office of the Rail Regulator
(11)	the National Lottery Commission
(12)	the Water Services Regulation Authority
(13)	the Office of Communications
(14)	the Office of Fair Trading

	(15)	the Financial Reporting Review Panel
	(16)	the House of Commons Department of Chamber and Committee Services

8 Annex 2R Headline codes and categories

Headline code	Headline category	Description
Urgent priority		
SUS	Temporary Suspension	Submitted to indicate that a security has been temporarily suspended from the Official List
SRS	Statement re. Suspension	Statement regarding the suspension of listing/trading of a company's listed securities
REN	Restoration of Listing	Submitted to indicate that a security has been admitted/cancelled from the Official List
NOT	Official List Notice	Submitted to indicate that a security has been admitted to/cancelled from the Official List
MSC	Miscellaneous	Miscellaneous urgent priority announcements
High priority		
QRF	1st Quarter Results	First quarter financial results
QRT	3rd Quarter Results	Third quarter and nine months financial results
ACQ	Acquisition	Statement regarding an acquisition of a company or assets
AGM	AGM Statement	Statement made at a company's AGM
ACS	Annual Financial Report	Publication of a company's annual financial report
CAR	Capital Reorganisation	Notification of the restructuring of a company's existing share capital
CON	Conversion of Securities	Notification of the details of a conversion of securities (e.g. warrants/convertible loan stock)
TAB	Disclosure Table	Notification of companies currently in offer period
DIS	Disposal	Statement regarding the disposal of a company or assets
DRL	Drilling Report	Report given by mineral, oil and natural gas companies
EGM	EGM Statement	Statement made at a company's EGM

FR	Final Results	Announcement of full year/4th quarter financial results
FEE	Form 8 (OPD) [Insert name of offeree or offeror]	Opening position disclosure by a party to an offer
FEO	Form 8.5 (EPT/NON-RI)	Opening position disclosure/dealing disclosure by an exempt principal trader without recognised intermediary (“RI”) status or where RI status is not applicable
FER	Form 8.5 (EPT/RI)	Dealing disclosure by an exempt principal trader with recognised intermediary (“RI”) status dealing in a client-serving capacity
FON	Formal Notice	Notification of the issue of a debt instrument programme and publication of relevant listing particulars
FUR	Further re (insert appropriate text)	Announcement made following an initial, related announcement
IR	Half-year Report	Announcement of half-year/second quarter financial results
IMS	Interim Management Statement	A twice-yearly statement of material events and transactions during the period
IOD	Issue of Debt	Notification of an issue of debentures, debenture or loan stock, bonds and notes, whether secured or unsecured
IOE	Issue of Equity	Notification of an issue of equity shares e.g. offer for subscription/offer for sale/rights issue
LOI	Letter of Intent Signed	Statement regarding a letter of intent signed between entities
MER	Merger Update	Statement regarding decision whether a takeover/merger has been referred for investigation to the Competition Commission/Secretary of State for Trade and Industry
OFB	Offer by [add offeror’s name]	Statement giving details of an offer announced by the offeree.
OFF	Offer for [add offeree’s name]	Statement giving details of an offer announced by the offer or

OLA	Offer Lapsed	Statement declaring that the required acceptances for an offer to be successful have not been obtained and that the offer has lapsed
ORE	Offer Rejection	Statement that an offer has been rejected
OTT	Offer Talks Terminated	Statement that a company's offer discussions have been terminated without an offer being made
OUP	Offer Update	Statement giving an update on an offer e.g. offer acceptances/offer extension/offer becoming wholly unconditional
PNM	Prior Notice of Merger	Statement regarding proposed mergers
PRL	Product Launch	Statement regarding the launch of a new product by a company
AGR	Re Agreement	Statement regarding an alliance between entities
SAL	Re Alliance	Statement regarding an alliance between entities
CNT	Re Contract	Statement regarding a contract entered into/awarded/signed
JVE	Re Joint Venture	Statement regarding a joint venture between entities
RAP	Regulatory Application	Application by a company to a regulatory body for a product or service (e.g. approval to market a pharmaceutical product)
REA	Regulatory Approval	Approval from a regulatory body for a company's product or service (e.g. approval to market a pharmaceutical product)
RES	Research Update	A statement giving an update on research (e.g. clinical trials)
RSP	Response to (insert appropriate text)	Statement submitted in response to a previous statement made another entity
REP	Restructure Proposals	Operational restructuring of a company
RAG	Result of AGM	Notification of the result of any voting at an AGM
REG	Result of EGM	Notification of the results of any voting at an EGM

ROI	Result of Equity Issue	Notification of the result of an issue of equity shares e.g. offer for subscription/offer for sale/ rights issue
ROM	Result of Meeting	Outcome of a meeting other than an AGM or EGM
RTE	Result of Tender Offer	Notification of the result of a tender offer
DCC	Form 8 (DD) - [Insert name of offeree or offeror	Dealing disclosure by a party to an offer or person acting in concert (including for the account of discretionary investment clients)
RET	Form 8.3 – [Insert name of offeree or offeror]	Opening position disclosure/dealing disclosure by a person with interests in relevant securities representing 1% or more
SOA	Scheme of arrangement	Statement giving details of a scheme of arrangement
STR	Statement re (insert appropriate text)	Statement regarding a particular issue
STC	Statement re (insert appropriate text)	Statement by the Competition Commission regarding the outcome of its investigation of a takeover/merger
OFD	Statement re Possible Offer	Statement that a company is in discussions which may or may not lead to an offer being made
SPC	Statement re Press Comment	Statement regarding press comment
SPM	Statement re Share Price Movement	Statement regarding a movement in the price of a company's listed securities
SYR	Syndicate Results	Statement of results submitted by Lloyd's
TEN	Tender Offer	Notification of a tender offer
TVR	Total Voting Rights	Notification of a change in the total number of voting rights
TST	Trading Statement	Statement regarding a company's trading performance (e.g. profit warning)
POS	Transaction in Own Shares*	Notification of a transaction involving own shares, including a purchase, sale, redemption, cancellation, transfer or allotment

	Miscellaneous	Miscellaneous high priority announcements
Medium priority		
ARI	Announcement re: Rights Issue	Announcement by an issuer confirming the commencement of a Rights Issue period
LIS	Additional Listing	Notification of any addition to a company's existing share capital
AIU	Annual Information Update	Notification referring to or containing all information that has been published or has been made available to the public over the last 12 months
BRC	Base Rate Change	Announcement of a change in bank base rate
BLR	Block listing Interim Review*	Six monthly notification by a company issuing securities on a regular basis. Notification of a company's annual report & accounts
CMC	Compliance with Model Code	Statement by a closed-ended investment fund under LR 15.5.1 confirming it is satisfied that all inside information has been previously notified.
CAS	Compulsory Acquisition of Shares	Statement regarding the compulsory acquisition of shares
RDS	Director/PDMR Shareholding*	Notification of issuers, persons discharging managerial responsibilities and their connected persons in respect of transactions conducted in their own account in shares of the issuer
BOA	Directorate change	Notification of any change to a company's board e.g. appointments/resignations/changes to important functions or executive responsibilities of a director
DIV	Dividend Declaration	Declaration of a dividend issued by a company
RC	FRN Variable Rate Fix	Update of interest rate for a floating rate note
GEO	Geographical Distribution	Notification by an investment company/trust of the geographical distribution of its assets
HOL	Holding(s) in Company*	Notification of major interests in shares
NAV	Net Asset Value(s)	Notification by an investment company/trust of

		its Net Asset Value
PFU	Portfolio Update	Periodic notification by an investment company/trust of its investment portfolio as required by Listing Rule 15.4.10 R
PDI	Publication of a prospectus	Publication of a prospectus in accordance with prospectus rules
RTT	Rule 2.10 Announcement	Announcement by an offeree company at the beginning of an offer period regarding details of all relevant securities issued by the company together with the numbers of such securities in issue as required by the Takeover Panel.
TAV	Total Assets Value	Notification by an investment company/trust of its Total Asset Value
TRS	Treasury Stock	Notification of the rate of interest payable on treasury stocks
MSC	Miscellaneous	Miscellaneous medium priority announcements
Low priority		
CAN	Change of Name	Notification of a company's change of name
CIR	Circ re. [insert appropriate document title]	Notification that a document issued to holders of listed securities (including notices of meetings but excluding listing particulars, annual report and accounts, interim reports, proxy cards and dividend or interest vouchers) is available for public inspection
COS	Company Secretary Change	Notification of the appointment/resignation of a company secretary
RDN	Director Declaration	Notification of details of all directorships held by a director in any other publicly quoted company and any details shown in <i>LR</i> 9.6.13(2) to (6)
DOC	Doc re. [insert appropriate document title]	Notification that a document issued to holder of listed securities is available for public inspection
NAR	New Accounting Ref Date	Notification of a change in a company's accounting reference date
NOA	Notice of AGM	Notification of a company's annual general meeting

NOE	Notice of EGM	Notification of a company's extraordinary general meeting
NOR	Notice of Results	Notification of the date financial results will be published
ODP	Offer Document Posted	Statement that offer document has been posted to holders of a company's listed securities
MSC	Miscellaneous	Miscellaneous low priority announcements
TSM	Test Message	Message submitted to test announcement system but not published

* Headline category is associated with a standard form, which is available on the *FCA's* website.

Amend the following text as shown.

TP1 Transitional Provisions

(1)	(2) Material to which the transitional provision applies	(3)	(4) Transitional provision	(5) Transitional provision: dates in force	(6) Handbook provision: coming into force
...					
<u>22</u>	<u>DTR 8</u>	<u>R</u>	<p><u>(1) This rule applies to a person who was approved by the FCA as meeting the Criteria for Regulated Information Services and was on the list of Regulated Information Services maintained by the FCA on [the day before the effective date of instrument].</u></p> <p><u>(2) A person to whom this rule applies may continue to disseminate regulated information in accordance with the Criteria for Regulated Information Services published on the FCA's website as at [the</u></p>	<u>[effective date of instrument - effective date of instrument plus 6 months]</u>	<u>[effective date of instrument]</u>

		<p><u>day before the effective date of instrument].</u></p> <p><u>(3) A person to whom this rule applies may apply for approval as a primary information provider to take effect from 6 months after [the effective date of instrument] in accordance with DTR 8.2.</u></p>		
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Annex E

Amendments to the Enforcement Guide (EG)

In this Annex, underlining indicates new text.

18 Cancellation of approval as sponsor or primary information provider on the FCA's own initiative

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18.3 The FCA may also cancel a primary information provider's approval under section 89P of the Act if it considers that a primary information provider has failed to meet the criteria for approval as a primary information provider as set out in DTR 8.3.

18.4 When considering whether to cancel a primary information provider's approval on its own initiative, the FCA will take into account all relevant factors, including, but not limited to, the following:

- (1) the competence of the primary information provider;
- (2) the adequacy of the primary information provider's systems and controls;
- (3) the primary information provider's history of compliance with DTR 8;
- (4) the nature, seriousness and duration of the suspected failure of the primary information provider to meet (at all times) the criteria for approval as a primary information provider set out in DTR 8.3;
- (5) any matter which the FCA could take into account if it were considering an application for approval as a primary information provider made under section 89P(4)(c) of the Act.

...

Financial Conduct Authority



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