

# **Changes to align the FCA Handbook with the EU Prospectus Regulation: feedback to CP19/6**

**Policy Statement**

PS19/12

May 2019

## This relates to

Consultation Paper 19/6  
which is available on our website at  
[www.fca.org.uk/publications](http://www.fca.org.uk/publications)

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# 1 Summary

## Introduction

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- 1.1** In Consultation Paper (CP) 19/6, we consulted on changes to our Handbook to align it with the Prospectus Regulation (the Regulation), which comes into effect on 21 July 2019. The Regulation, (EU) 2107/1129, will repeal and replace the existing Prospectus Directive (PD). Our consultation closed on 28 March 2019.
- 1.2** This Policy Statement (PS) summarises the feedback we received on CP19/6 and our response to that feedback.
- 1.3** The Regulation sets out the information companies need to disclose to investors and potential investors in a prospectus. If on 21 July the UK has not yet withdrawn from the European Union (EU), or the UK has left and a withdrawal agreement has been agreed, the Regulation will be directly applicable in the UK.

## Who this applies to

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- 1.4** This PS will be of particular interest to:
- UK and overseas issuers with UK-listed securities or those considering a UK listing of their securities
  - issuers and other persons who make public offers of transferable securities or seek admission of transferable securities to regulated markets in the UK
  - firms advising issuers on the issuance of UK-listed securities
  - firms and market participants who provide advice on prospectuses
  - firms and persons who invest or deal in transferable securities through public offers or regulated markets in the UK
  - firms advising persons investing in or dealing in listed securities or transferable securities
- 1.5** This list is not exhaustive.

## The wider context of this policy statement

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### ***Our consultation***

- 1.6** The Regulation specifies the information companies need to disclose to investors and potential investors through a 'prospectus' when they are raising capital. The changes in the Regulation keep the EU prospectus regime up-to-date and ensure that investors have the information they need to make informed investment decisions.

- 1.7** The Regulation is the second and most substantive update of the EU's prospectus regime. The new framework of rules aims to simplify and improve the regime, increase its efficiency and enhance the international competitiveness of the EU.
- 1.8** We want to ensure our Handbook is consistent with the Regulation. So, we have consulted on changes we plan to make, to ensure the Handbook can function effectively under the new regime.
- 1.9** We mentioned in CP19/6 that we were consulting on the basis that the UK would leave the EU with a time-limited implementation period, as set out under the terms of the Withdrawal Agreement.

## How it links to our objectives

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- 1.10** Aligning our Prospectus Rules sourcebook (the PR sourcebook) with the Regulation will support market integrity and overall, help UK markets to continue to function well.
- 1.11** We believe structuring our new sourcebook in a similar way to the current one (where we copy out sections of relevant EU law for ease) enhances market integrity. We anticipate this will give issuers a familiar format that should act as a helpful reference tool when preparing a prospectus.

## What we are changing

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- 1.12** After consulting on aligning our Handbook with the Regulation and taking the responses we received into account, this PS contains near-final rules implementing our changes. These near-final rules replace the existing PR sourcebook.
- 1.13** We are making near-final rules because the new sourcebook references some revised text from the Financial Services and Markets Act 2000 (FSMA), and reproduces relevant EU legislation, that have yet to be made. We intend to finalise these near-final rules once the changes to FSMA and the relevant EU legislation have been finalised.
- 1.14** The new sourcebook replicates key provisions of the Regulation and other relevant EU legislation for reference. We understand that issuers and their advisers find it helpful to have relevant reference material in a single location. The current PR sourcebook already has this structure so maintaining a similar approach will provide continuity.
- 1.15** The new sourcebook also contains new rules on sending data to the FCA and, following the consultation, the timing for us publishing approved prospectuses.
- 1.16** The new sourcebook will have a new name – the Prospectus Regulation Rules sourcebook (PRR sourcebook). Our PR sourcebook as at 20 July 2019 will be available using the 'show timeline' facility in our Handbook. This will provide legal certainty to issuers and other stakeholders regarding prospectuses approved under the PD.<sup>1</sup>

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<sup>1</sup> Article 46(3) of the Regulation

## Outcome we are seeking

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- 1.17** We want our Handbook to be consistent with the new Regulation, and a useful resource for issuers and market participants.

## Measuring success

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- 1.18** We will know if our proposals have been successful if issuers and market participants find the PRR sourcebook useful. We welcome feedback on this as market participants get used to the new sourcebook.

## Summary of feedback and our response

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- 1.19** There were few responses to CP19/6. The proposals we outlined in the CP were comparatively straightforward and it focussed on aligning with directly-applicable EU legislation with which stakeholders will already be familiar.
- 1.20** We received 3 formal responses. These were generally supportive of the proposed Handbook changes. One substantive concern was raised about the timing of publication of an approved prospectus, and to confirm the requirement on issuers to submit data to us for transmission to the European Securities and Markets Authority (ESMA). Our near-final rules include an amendment to reflect this feedback.

## Equality and diversity considerations

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- 1.21** Conforming with an EU Regulation is mandatory and the UK will have limited discretion over how the Regulation is applied. The institutions and bodies of the EU are required to guarantee that the rights and principles of the Charter of Fundamental Rights are correctly considered at every step of the legislative process. The equality rights enshrined in the Charter are broadly equivalent to those protected under the UK's Equality Act 2010.
- 1.22** In CP19/6, we said we do not consider that the proposals materially impact any of the groups with protected characteristics under the Equality Act 2010 and we would continue to consider this over the consultation period.
- 1.23** We received no feedback from respondents on this aspect and have concluded that our rules do not adversely impact any of the groups with protected characteristics ie age, disability, sex, marriage or civil partnership, pregnancy and maternity, race, religion and belief, sexual orientation and gender reassignment.

## Next steps

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- 1.24** Any issuer seeking approval of a draft prospectus on or after 21 July 2019 must do so under the Regulation and in line with the PRR sourcebook.

- 1.25** Please note that applications submitted to the FCA on or after 21 July 2019 containing draft prospectuses conforming to the PD and PR sourcebook regime, will not be valid and will not be approved.
- 1.26** You should also be aware that if you apply to have a prospectus approved under the PD regime, and it is approved before 21 July 2019, it will be governed by national law under the PD regime for 12 months after 21 July 2019, or until the end of the prospectus' validity. For example, if an issuer has a prospectus approved on 20 July 2019, it will be approved under the existing regime and that prospectus will be governed by UK law implementing the PD until the end of its validity, or for up to 12 months from that date, whichever occurs first.
- 1.27** Our website includes sections on Submitting a prospectus or circular and Forms and Checklists, which highlight the different disclosure requirements under the current and future regimes.

## 2 Feedback on our proposals and cost benefit analysis

- 2.1** This chapter sets out the feedback we received on the proposals and cost-benefit analysis (CBA) in CP19/6.

### Background on our proposals

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- 2.2** We consulted on changes to our PR sourcebook to align it with the new Regulation. Depending on the timing and terms of the UK's withdrawal from the EU, the Regulation will be directly applicable in the UK from 21 July 2019.
- 2.3** The proposed rule changes mainly involve removing existing rules that implemented the PD in the UK. But, in CP19/6 we proposed continuing keeping a user-friendly format by reproducing text in our sourcebook drawn directly from the Regulation. While this is not a necessary requirement under the Regulation (as the Regulation applies directly), we think this will help issuers and market participants.
- 2.4** If the UK withdraws from the EU without a deal before 21 July 2019, we will not proceed with these proposals. As mentioned in CP19/6, the Financial Services (Implementation of Legislation) Bill is the vehicle under which the UK would align itself with the Regulation. The passage of this Bill is a matter for Parliament.

### Feedback to CP19/6

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- 2.5** We received 3 formal responses to CP19/6, from 3 trade associations (see Annex 1 for details).
- 2.6** All 3 respondents agreed with the approach to the new rules we had proposed to incorporate into the new sourcebook and saw merit in our proposal to keep the structure of the sourcebook as similar as possible to the current sourcebook (reproducing key sections of the directly-applicable Regulation).
- 2.7** Other than some matters for clarification, we only received one substantive comment. This related to new arrangements for publishing prospectuses arising from the new Regulation.
- 2.8** Currently, when we approve a prospectus, we immediately publish the fact that we have approved it on our website. However, a link to the prospectus itself is not activated until sometime later, once the issuer has filed its approved prospectus with the National Storage Mechanism (NSM). So, the issuer has control over the earliest time users can access the prospectus from our website.
- 2.9** The Regulation removes the requirement for the issuer to file approved prospectuses with us. But both the issuer and the FCA are still required to publish the prospectus. Without additional rules to coordinate the timing of publication, this could result in us publishing an approved prospectus before an issuer has done so.

- 2.10** In response to a specific question in CP19/6, respondents expressed a preference for issuers to continue to control the timing of publication. One important concern was that a prospectus could contain inside information (eg if it is for a rights issue or spin-off IPO), so it was important that the FCA did not publish it before the issuer had disclosed that inside information and published the prospectus itself. Respondents asked us to consider introducing a clear mechanism to determine the timing of publication of a prospectus by the FCA.

### Our response:

We have clarified in our near-final rules, at PRR 3.2.6 G, that we intend to send approved prospectuses to the UK NSM after 6pm on the working day after we have approved a prospectus.

This should address respondents' concerns by allowing the issuer to control the timing of its announcement to the market during the one-day window between us approving the prospectus and submitting it to the NSM.

The one-day window coincides with our obligation under the Regulation to notify ESMA of the approval of a prospectus no later than the end of the first working day after approval. Under the Regulation, ESMA is then required to publish the prospectus 'without undue delay'.

## Data submission requirements

### Submitting information to us

- 2.11** In CP19/6 we said that ESMA had recommended to the European Commission (the Commission) an express provision for National Competent Authorities (NCAs) to require issuers to provide NCAs with Regulatory Technical Standards (RTS) data.
- 2.12** Since then, the Commission has adopted delegated acts and RTS. The Commission did not make express provision for NCAs to require issuers to provide them with the RTS data. But, as we noted in CP19/6, the Regulation gives NCAs the power, in line with national law, to require applicants to provide information and documents.
- 2.13** So we will go ahead with our proposed rules (in PRR 3.2.7 R and 3.2.8 R), which require issuers to provide us with RTS data. This will then enable us to forward the RTS data to ESMA in line with the Regulation.
- 2.14** We still think that asking issuers to provide us with the RTS data is the most cost effective and efficient way to meet our new data submission obligations. We received no formal responses to CP19/6 disagreeing with this approach.
- 2.15** A respondent asked how the RTS data requirements apply to depository receipts, where there are separate issuers of the depository receipt and the underlying share. We have raised this issue with ESMA, who are the ultimate recipients of the data.



## How information can be submitted to us

- 2.16** In CP19/6 we explained our intention to enhance our existing Electronic Submission System (ESS) to allow issuers to submit documents and enter the required data into our existing online system. We are going ahead with this proposal.
- 2.17** We considered whether it would help issuers with high numbers of prospectus or final terms if we developed a system-to-system (S2S) solution. Having engaged with market participants, we continue to consider developing a S2S solution, but are focussing initially on final terms at this stage.

## Cost benefit analysis

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- 2.18** Through stakeholder engagement, it was noted that our cost estimates in CP 19/6 might understate the costs to issuers of preparing prospectuses under the Regulation. It was suggested that advisers' average chargeable rates might more accurately reflect likely costs to issuers.
- 2.19** We note that moving to the new data reporting requirements could take some time to bed down for all parties and that costs might be higher in the meantime. We have also updated our cost estimates to take account of a potentially higher staff cost (a 30% uplift relative to our earlier estimates), which may include the appointment of external legal advisors. We now estimate the total annual costs of requiring issuers to submit the relevant documents and data to be £972,000 to £1,361,000 (previously estimated as £748,000 to £1,047,000 annually). See [Annex 2 of CP19/6](#) for details on our original calculations.

## Additional points

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### Whistleblowing

- 2.20** Article 41 of the Regulation provides that Member States shall require employers engaged in activities that are regulated for financial services purposes to have in place appropriate procedures for their employees to report infringements. We are amending our rules ([SYSC 18](#)) by adding a cross reference to Article 41(4) of the Regulation and its implementation. This follows a similar approach to SYSC 18 that we made in relation to the Market Abuse Regulation (MAR).

### Scope of the Regulation

- 2.21** We confirm our approach in PRR 1.2.2 EU, where we reproduce extracts of the Regulation detailing its scope.

### EU measures

- 2.22** In addition to reproducing extracts from the Regulation, we intend to include in our final rules references to, and extracts from, additional EU legislative materials that are finalised by the time we make our final rules. We note that the application of EU laws that are directly applicable in the EU do not require publication in our PRR sourcebook to have effect in the UK, though we may consider implementing additional guidance in future.

## 2.23

We include in our near-final rules extracts from the delegated acts and RTS that the Commission adopted on 14 March 2019. Our final rules will update these extracts to reflect the final versions in the EU Official Journal. Also:

- ESMA has measures which will apply to prospectuses from 21 July 2019:  
1) Questions and Answers (Q&As) on the Regulation – Q&A 2.1 explains that the materials in points 2 and 3, below, should be applied to prospectuses drawn up under the Regulation to the extent that they are compatible with the Regulation; 2) Q&As on prospectuses; 3) ESMA update of the CESR Recommendations; and 4) Guidelines on alternative performance measures (APM).
- The following materials are in development – we intend to include them in our final rules if they are finalised in time, though this is unlikely: 1) Guidelines on risk factors – ESMA has published its Final Report, but the Guidelines do not apply until published on ESMA's website in all EU official languages; and 2) Delegated acts on Exempted Documents – ESMA has published its Final Report on this, but the actual measures will not apply until published in the EU Official Journal. The EU's proposed SME growth markets regulation's amendments to the Regulation include some changes to the Exempted Documents regime, but we do not expect this amending regulation to be in force before 21 July 2019. The European Parliament's Committee on Economic and Monetary Affairs (ECON) published a provisionally agreed text on 20 March 2019.
- Longer term, the Commission has requested ESMA to provide technical advice, by 31 August 2020, on general equivalence criteria for prospectuses drawn up under the laws of third countries.
- ESMA currently has several opinions, including on third-country prospectus equivalence. Its Q&A 2.1, above, does not address these opinions. We also note that the Commission's Action Plan on Financing Sustainable Growth looked to specify content requirements for green bonds under the Regulation by Q2 2019. However, we do not expect this to be in place by 21 July 2019.

## Annex 1

### List of non-confidential respondents

Association for Financial Markets in Europe (AFME)

Association of Investment Companies (AIC)

Joint Working Party of the Law Society and City of London Law Society

## Annex 2

### Abbreviations used in this paper

<b>APM</b>	Alternative Performance Measures
<b>CESR</b>	Committee of European Securities Regulators
<b>CP</b>	Consultation Paper
<b>ESS</b>	Electronic Submission System
<b>ESMA</b>	European Securities and Markets Authority
<b>EU</b>	European Union
<b>FCA</b>	Financial Conduct Authority
<b>IP</b>	Implementation Period
<b>IPO</b>	Initial public offer
<b>MAR</b>	Market Abuse Regulation
<b>NCA</b>	National Competent Authority
<b>PD</b>	Prospectus Directive
<b>PR sourcebook</b>	Prospectus Rules sourcebook
<b>PRR sourcebook</b>	Prospectus Regulation Rules sourcebook
<b>PS</b>	Policy Statement
<b>Q&amp;As</b>	Questions & Answers
<b>RTS</b>	Regulatory Technical Standards
<b>The Regulation</b>	Prospectus Regulation
<b>SI</b>	Statutory instrument
<b>SME</b>	Small and medium-sized enterprises
<b>UK</b>	United Kingdom
<b>WA</b>	Withdrawal Agreement

We have developed the policy in this Policy Statement in the context of the existing UK and EU regulatory framework. The Government has made clear that it will continue to implement and apply EU law until the UK has left the EU. We will keep the proposals under review to assess whether any amendments may be required in the event of changes in the UK regulatory framework in the future.

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# Appendix 1

## Near-final rules (legal instrument)

## PROSPECTUS REGULATION RULES INSTRUMENT 2019

### Powers exercised

- A. The Financial Conduct Authority (“the FCA”) 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 79 (Listing particulars and other documents);
  - (3) section 84 (Matters which may be dealt with by prospectus rules);
  - (4) section 89A (Transparency rules);
  - (5) section 89G (Transparency rules: other supplementary provisions);
  - (6) section 96 (Obligations of issuers of listed securities);
  - (7) section 137A (The FCA’s general rules);
  - (8) section 137T (General supplementary powers);
  - (9) section 139A (Power of the FCA to give guidance); and
  - (10) paragraph 23 (Fees) of Part 3 (Penalties and Fees) of Schedule 1ZA (The Financial Conduct Authority).
- B. The rule-making powers listed above are specified for the purpose of section 138G(2) (Rule-making instruments) of the Act.

### Commencement

- C. This instrument comes into force on 21 July 2019.

### Making the Prospectus Regulation Rules (PRR) sourcebook

- D. The Financial Conduct Authority makes the rules and gives the guidance in Annex A to this instrument.

### Revocation of the Prospectus Rules sourcebook

- E. The provisions of the Prospectus Rules sourcebook are deleted.

### Amendments to the Handbook

- F. 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 B
Senior Management Arrangements, Systems and Controls (SYSC)	Annex C
Fees manual (FEES)	Annex D
Conduct of Business sourcebook (COBS)	Annex E
Market Conduct sourcebook (MAR)	Annex F
Product Intervention and Product Governance sourcebook (PROD)	Annex G
Supervision Manual (SUP)	Annex H

Decision Procedure and Penalties Manual (DEPP)	Annex I
Investment Funds sourcebook (FUND)	Annex J
Regulated Covered Bonds sourcebook (RCB)	Annex K
Listing Rules sourcebook (LR)	Annex L
Disclosure Guidance and Transparency Rules sourcebook (DTR)	Annex M

### Amendments to material outside the Handbook

- G. The Enforcement Guide (EG) is amended in accordance with Annex N to this instrument.
- H. The Perimeter Guidance manual (PERG) is amended in accordance with Annex O to this instrument.

### Notes and Non-FCA legislative text

- I. (1) In the Annexes to this instrument, the “notes” (indicated by “**Note:**” and “*Editor’s Note:*”) and legislative text, marked “EU” in the margin, are included for the convenience of readers but do not form part of the legislative text made by the Financial Conduct Authority.
- (2) Although European Union Legislation is reproduced in this instrument, only European Union legislation printed in the paper edition of the Official Journal of the European Union is deemed authentic.

### Citation

- J. This instrument may be cited as the Prospectus Regulation Rules Instrument 2019.

By order of the Board  
[date]



[*Editor's Note:* References to the Act and copied sections of EU Level 2 legislation to be confirmed. EU Level 2 legislation has been adopted by the European Commission but has not been published in Official Journal at the date of this instrument.]

## Annex A

### The Prospectus Regulation Rules sourcebook (PRR)

In this Annex all text is new and is not underlined. Insert the following new sourcebook, Prospectus Regulation Rules (PRR), in the Listing, Prospectus and Disclosure Rules block.

#### 1 Preliminary

##### 1.1 Preliminary

###### Application

- 1.1.1 R (1) The *rules* and *guidance* in this sourcebook, except for the *rules* and *guidance* in PRR 4.1, only apply (subject to paragraph (2)) in relation to:
- (a) an *offer*, or a request for *admission to trading* of *transferable securities*, in respect of which article 3 of the *Prospectus Regulation* applies (other than an exempt *offer* under [section 86 of the *Act*] or article 1 of the *Prospectus Regulation*) and in relation to which the *United Kingdom* is the *Home State*;
  - (b) an *offer*, or a request for *admission to trading* of *transferable securities*, where under article 4 of the *Prospectus Regulation* a *person* has elected to have a *prospectus* in relation to the *transferable securities* and in relation to which the *United Kingdom* is the *Home State*; and
  - (c) an *offer*, or a request for *admission to trading* of *transferable securities*, not referred to in paragraphs (a) or (b), in relation to which the *United Kingdom* is the *Home State*.
- (2) The *rules* falling within paragraph (1) also apply in relation to an *offer*, or a request for *admission to trading* of *transferable securities*, where another competent authority of an *EEA State* has transferred the function of approving the *prospectus* to the *FCA*.

###### Persons responsible for complying with rules

- 1.1.2 R A *person* must comply with all *rules* that are specified as being applicable to them.
- 1.1.3 R If a *rule* does not specify who is responsible for complying with it, then the

following *persons* must comply with it:

- (1) in relation to an *offer*:
  - (a) the *issuer*; and
  - (b) the *offeror* (if this is a *person* other than the *issuer*);
- (2) in relation to a request for the *admission to trading of transferable securities*:
  - (a) the *issuer*; and
  - (b) the *person* requesting *admission to trading* (if this is a *person* other than the *issuer*).

- 1.1.4 R An *issuer* is not responsible under *PRR* 1.1.3R (1)(a) or (2)(a) if it has not authorised or made the *offer* or the request for the *admission to trading*.

Provisions concerning the prospectus regime

- 1.1.5 G The *FCA* considers that the following documents are relevant to the *prospectus* regime:
- (1) the *Prospectus Regulation*;
  - (2) Part 6 of the *Act*;
  - (3) the *PR Regulation*;
  - (4) these *rules*;
  - (5) the *ESMA Prospectus Recommendations* (to the extent applicable);
  - (6) the *ESMA PD Prospectus Questions and Answers* (to the extent applicable);
  - (7) the *ESMA PR Prospectus Questions and Answers*;
  - (8) the *ESMA Prospectus Opinions* (to the extent applicable); and
  - (9) the *Prospectus RTS Regulation*.

[**Note:** *ESMA* has also issued guidelines under article 16(3) of the *ESMA Regulation* covering ‘Alternative Performance Measures’. See <https://www.esma.europa.eu/sites/default/files/library/2015/10/2015-esma-1415en.pdf>]

- 1.1.6 G To assist readers, extracts from the *Prospectus Regulation*, the *PR Regulation* and the *Prospectus RTS Regulation* are reproduced in the text of these *rules*. Readers should however consult those documents themselves to see the full and definitive text.

## ESMA materials

- 1.1.7 G In determining whether the *Prospectus Regulation*, Part 6 of the *Act*, these *rules*, the *PR Regulation* and the *Prospectus RTS Regulation* have been complied with, the *FCA* will consider whether a *person* has acted in accordance with the *ESMA Prospectus Recommendations* (to the extent applicable), the *ESMA PD Prospectus Questions and Answers* (to the extent applicable), the *ESMA PR Prospectus Questions and Answers* and the *ESMA Prospectus Opinions* (to the extent applicable).

## Application of rules to supplementary prospectuses

- 1.1.8 R Unless the context otherwise requires, a reference in these *rules* to a *prospectus* includes a *supplementary prospectus*.

## PRIIPs Regulation

- 1.1.9 G An *issuer*, *offeror* or *person* requesting *admission to trading* should also consider whether the requirements of the *PRIIPs Regulation* apply.

**1.2 Requirement for a prospectus and exemptions**

## Requirement for a prospectus

- 1.2.1 EU Article 3(1) and (3) of the *Prospectus Regulation* provides for when a *prospectus* will be required:

## Article 3

**Subject matter, scope and exemptions**

1. Without prejudice to Article 1(4), securities shall only be offered to the public in the Union after prior publication of a prospectus in accordance with this Regulation.
- ...
3. Without prejudice to Article 1(5), securities shall only be admitted to trading on a regulated market situated or operating within the Union after prior publication of a prospectus in accordance with this Regulation.

## Securities to which the Prospectus Regulation does not apply

- 1.2.2 EU Article 1(2) and (3) of the *Prospectus Regulation* provides that certain *transferable securities* are out of scope of the *Prospectus Regulation*:

## Article 1

**Subject matter, scope and exemptions**

...

2. This Regulation shall not apply to the following types of securities:
- (a) units issued by collective investment undertakings other than the closed-end type;
  - (b) non-equity securities issued by a Member State or by one of a Member State's regional or local authorities, by public international bodies of which one or more Member States are members, by the European Central Bank or by the central banks of the Member States;
  - (c) shares in the capital of central banks of the Member States;
  - (d) securities unconditionally and irrevocably guaranteed by a Member State or by one of a Member State's regional or local authorities;
  - (e) securities issued by associations with legal status or non-profit-making bodies, recognised by a Member State, for the purposes of obtaining the funding necessary to achieve their non-profit-making objectives;
  - (f) non-fungible shares of capital whose main purpose is to provide the holder with a right to occupy an apartment, or other form of immovable property or a part thereof and where the shares cannot be sold on without that right being given up.
3. Without prejudice to the second subparagraph of this paragraph and to Article 4, this Regulation shall not apply to an offer of securities to the public with a total consideration in the Union of less than EUR 1 000 000, which shall be calculated over a period of 12 months.
- Member States shall not extend the obligation to draw up a prospectus in accordance with this Regulation to offers of securities to the public referred to in the first subparagraph of this paragraph. However, in those cases, Member States may require other disclosure requirements at national level to the extent that such requirements do not constitute a disproportionate or unnecessary burden.

#### Exempt securities – offers of securities to the public

- 1.2.3 EU Article 1(4) of the *Prospectus Regulation* provides that certain *offers of transferable securities* to the public are exempt from the obligation to publish a *prospectus*:

#### Article 1

#### Subject matter, scope and exemptions

...

4. The obligation to publish a prospectus set out in Article 3(1) shall not apply to any of the following types of offers of securities to the public:
- (a) an offer of securities addressed solely to qualified investors;
  - (b) an offer of securities addressed to fewer than 150 natural or legal persons per Member State, other than qualified investors;
  - (c) an offer of securities whose denomination per unit amounts to at least EUR 100 000;
  - (d) an offer of securities addressed to investors who acquire securities for a total consideration of at least EUR 100 000 per investor, for each separate offer;
  - (e) shares issued in substitution for shares of the same class already issued, if the issuing of such new shares does not involve any increase in the issued capital;
  - (f) securities offered in connection with a takeover by means of an exchange offer, provided that a document is made available to the public in accordance with the arrangements set out in Article 21(2), containing information describing the transaction and its impact on the issuer;
  - (g) securities offered, allotted or to be allotted in connection with a merger or division, provided that a document is made available to the public in accordance with the arrangements set out in Article 21(2), containing information describing the transaction and its impact on the issuer;
  - (h) dividends paid out to existing shareholders in the form of shares of the same class as the shares in respect of which such dividends are paid, provided that a document is made available containing information on the number and nature of the shares and the reasons for and details of the offer;
  - (i) securities offered, allotted or to be allotted to existing or former directors or employees by their employer or by an affiliated undertaking provided that a document is made available containing information on the number and nature of the securities and the reasons for and details of the offer or allotment;
  - (j) non-equity securities issued in a continuous or repeated manner by a credit institution, where the total aggregated consideration in the Union for the securities offered is less

than EUR 75 000 000 per credit institution calculated over a period of 12 months, provided that those securities:

- (i) are not subordinated, convertible or exchangeable; and
- (ii) do not give a right to subscribe for or acquire other types of securities and are not linked to a derivative instrument.

Exempt securities – admission to trading on a regulated market

- 1.2.4 EU Article 1(5) of the *Prospectus Regulation* provides that *admission to trading* of the following types of *transferable securities* is exempt from the obligation to publish a *prospectus*:

Article 1

### **Subject matter, scope and exemptions**

...

5. The obligation to publish a prospectus set out in Article 3(3) shall not apply to the admission to trading on a regulated market of any of the following:
- (a) securities fungible with securities already admitted to trading on the same regulated market, provided that they represent, over a period of 12 months, less than 20% of the number of securities already admitted to trading on the same regulated market;
  - (b) shares resulting from the conversion or exchange of other securities or from the exercise of the rights conferred by other securities, where the resulting shares are of the same class as the shares already admitted to trading on the same regulated market, provided that the resulting shares represent, over a period of 12 months, less than 20% of the number of shares of the same class already admitted to trading on the same regulated market, subject to the second subparagraph of this paragraph;
  - (c) securities resulting from the conversion or exchange of other securities, own funds or eligible liabilities by a resolution authority due to the exercise of a power referred to in Article 53(2), 59(2) or Article 63(1) or (2) of [RRD];
  - (d) shares issued in substitution for shares of the same class already admitted to trading on the same regulated market, where the issuing of such shares does not involve any increase in the issued capital;

- (e) securities offered in connection with a takeover by means of an exchange offer, provided that a document is made available to the public in accordance with the arrangements set out in Article 21(2), containing information describing the transaction and its impact on the issuer;
- (f) securities offered, allotted or to be allotted in connection with a merger or a division, provided that a document is made available to the public in accordance with the arrangements set out in Article 21(2), containing information describing the transaction and its impact on the issuer;
- (g) shares offered, allotted or to be allotted free of charge to existing shareholders, and dividends paid out in the form of shares of the same class as the shares in respect of which such dividends are paid, provided that the said shares are of the same class as the shares already admitted to trading on the same regulated market and that a document is made available containing information on the number and nature of the shares and the reasons for and details of the offer or allotment;
- (h) securities offered, allotted or to be allotted to existing or former directors or employees by their employer or an affiliated undertaking, provided that the said securities are of the same class as the securities already admitted to trading on the same regulated market and that a document is made available containing information on the number and nature of the securities and the reasons for and detail of the offer or allotment;
- (i) non-equity securities issued in a continuous or repeated manner by a credit institution, where the total aggregated consideration in the Union for the securities offered is less than EUR 75 000 000 per credit institution calculated over a period of 12 months, provided that those securities:
  - (i) are not subordinated, convertible or exchangeable; and
  - (ii) do not give a right to subscribe for or acquire other types of securities and are not linked to a derivative instrument;
- (j) securities already admitted to trading on another regulated market, on the following conditions:
  - (i) that those securities, or securities of the same class, have been admitted to trading on that other regulated market for more than 18 months;

- (ii) that, for securities first admitted to trading on a regulated market after 1 July 2005, the admission to trading on that other regulated market was subject to a prospectus approved and published in accordance with Directive 2003/71/EC;
- (iii) that, except where point (ii) applies, for securities first admitted to listing after 30 June 1983, listing particulars were approved in accordance with the requirements of Council Directive 80/390/EEC or [the *Consolidated Admissions and Reporting Directive*];
- (iv) that the ongoing obligations for trading on that other regulated market have been fulfilled;
- (v) that the person seeking the admission of a security to trading on a regulated market under the exemption set out in this point (j) makes available to the public in the Member State of the regulated market where admission to trading is sought, in accordance with the arrangements set out in Article 21(2), a document the content of which complies with Article 7, except that the maximum length set out in Article 7(3) shall be extended by two additional sides of A4-sized paper, drawn up in a language accepted by the competent authority of the Member State of the regulated market where admission is sought; and
- (vi) that the document referred to in point (v) states where the most recent prospectus can be obtained and where the financial information published by the issuer pursuant to ongoing disclosure obligations is available.

The requirement that the resulting shares represent, over a period of 12 months, less than 20% of the number of shares of the same class already admitted to trading on the same regulated market as referred to in point (b) of the first subparagraph shall not apply in any of the following cases:

- (a) where a prospectus was drawn up in accordance with either this Regulation or [the *PD*] upon the offer to the public or admission to trading on a regulated market of the securities giving access to the shares;
- (b) where the securities giving access to the shares were issued before 20 July 2017;
- (c) where the shares qualify as Common Equity Tier 1 items as laid down in Article 26 of [the *EU CRR*] of an institution as



defined in point (3) of Article 4(1) of that Regulation and result from the conversion of Additional Tier 1 instruments issued by that institution due to the occurrence of a trigger event as laid down in point (a) of Article 54(1) of that Regulation;

- (d) where the shares qualify as eligible own funds or eligible basic own funds as defined in Section 3 of Chapter VI of Title I of [the *Solvency II Directive*], and result from the conversion of other securities which was triggered for the purposes of fulfilling the obligations to comply with the Solvency Capital Requirement or Minimum Capital Requirement as laid down in Sections 4 and 5 of Chapter VI of Title I of [the *Solvency II Directive*] or the group solvency requirement as laid down in Title III of [the *Solvency II Directive*].

1.2.5 EU Article 1(6) provides as follows in relation to exemptions:

Article 1

#### **Subject matter, scope and exemptions**

...

- 6. The exemptions from the obligation to publish a prospectus that are set out in paragraphs 4 and 5 may be combined together. However, the exemptions in points (a) and (b) of the first subparagraph of paragraph 5 shall not be combined together if such combination could lead to the immediate or deferred admission to trading on a regulated market over a period of 12 months of more than 20% of the number of shares of the same class already admitted to trading on the same regulated market, without a prospectus being published.

Voluntary prospectus

1.2.6 EU Article 4 of the *Prospectus Regulation* provides for when a *prospectus* may be drawn up on a voluntary basis:

Article 4

#### **Voluntary prospectus**

- 1. Where an offer of securities to the public or an admission of securities to trading on a regulated market is outside the scope of this Regulation in accordance with Article 1(3), or exempted from the obligation to publish a prospectus in accordance with Article 1(4), 1(5) or 3(2), an issuer, an offeror or a person asking for admission to trading on a regulated market shall be entitled to voluntarily draw up a prospectus in accordance with this Regulation.

2. Such voluntarily drawn up prospectus approved by the competent authority of the home Member State, as determined in accordance with point (m) of Article 2, shall entail all the rights and obligations provided for a prospectus required under this Regulation and shall be subject to all provisions of this Regulation, under the supervision of that competent authority.

#### Prospectus for resale of transferable securities

- 1.2.7 EU Article 5 of the *Prospectus Regulation* provides for when an additional *prospectus* is, and is not, required in case of a subsequent resale of *transferable securities*:

#### Article 5

#### Subsequent resale of securities

1. Any subsequent resale of securities which were previously the subject of one or more of the types of offer of securities to the public listed in points (a) to (d) of Article 1(4) shall be considered as a separate offer and the definition set out in point (d) of Article 2 shall apply for the purpose of determining whether that resale is an offer of securities to the public. The placement of securities through financial intermediaries shall be subject to publication of a prospectus unless one of the exemptions listed in points (a) to (d) of Article 1(4) applies in relation to the final placement.

No additional prospectus shall be required in any such subsequent resale of securities or final placement of securities through financial intermediaries as long as a valid prospectus is available in accordance with Article 12 and the issuer or the person responsible for drawing up such prospectus consents to its use by means of a written agreement.

2. Where a prospectus relates to the admission to trading on a regulated market of non-equity securities that are to be traded only on a regulated market, or a specific segment thereof, to which only qualified investors can have access for the purposes of trading in such securities, the securities shall not be resold to non-qualified investors, unless a prospectus is drawn up in accordance with this Regulation that is appropriate for non-qualified investors.

## 2 Drawing up the prospectus

### 2.1 General contents of prospectus

#### General contents of prospectus

- 2.1.1 EU Article 6(1) and (2) of the *Prospectus Regulation* provides for the general contents of a *prospectus*:

## Article 6

**The prospectus**

1. Without prejudice to Article 14(2) and Article 18(1), a prospectus shall contain the necessary information which is material to an investor for making an informed assessment of:
  - (a) the assets and liabilities, profits and losses, financial position and prospects of the issuer and of any guarantor;
  - (b) the rights attaching to the securities; and
  - (c) the reasons for the issuance and its impact on the issuer.

That information may vary depending on any of the following:

  - (a) the nature of the issuer;
  - (b) the type of securities;
  - (c) the circumstances of the issuer;
  - (d) where relevant, whether or not the non-equity securities have a denomination per unit of at least EUR 100 000 or are to be traded only on a regulated market or a specific segment thereof, to which only qualified investors can have access for the purposes of trading in the securities.
2. The information in a prospectus shall be written and presented in an easily analysable, concise and comprehensible form, taking into account the factors set out in the second subparagraph of paragraph 1.

## Summary

- 2.1.2 EU Article 7(1) (first sub-paragraph) and (2) of the *Prospectus Regulation* provides:

## Article 7

**The prospectus summary**

1. The prospectus shall include a summary that provides the key information that investors need in order to understand the nature and the risks of the issuer, the guarantor and the securities that are being offered or admitted to trading on a regulated market, and that is to be read together with the other parts of the prospectus to aid investors when considering whether to invest in such securities.

...

2. The content of the summary shall be accurate, fair and clear and shall not be misleading. It is to be read as an introduction to the prospectus and it shall be consistent with the other parts of the prospectus.

When a summary is not required

- 2.1.3 EU Article 7(1) (second sub-paragraph) of the *Prospectus Regulation* provides:

Article 7

### **The prospectus summary**

1.

...

By way of derogation from the first subparagraph, no summary shall be required where the prospectus relates to the admission to trading on a regulated market of non-equity securities provided that:

- (a) such securities are to be traded only on a regulated market, or a specific segment thereof, to which only qualified investors can have access for the purposes of trading in such securities; or
- (b) such securities have a denomination per unit of at least EUR 100 000.

Contents of summary

- 2.1.4 EU Article 7(3) to (12) of the *Prospectus Regulation* provides for how the contents of the *summary* are to be determined:

Article 7

### **The prospectus summary**

...

3. The summary shall be drawn up as a short document written in a concise manner and of a maximum length of seven sides of A4-sized paper when printed. The summary shall:
  - (a) be presented and laid out in a way that is easy to read, using characters of readable size;
  - (b) be written in a language and a style that facilitate the understanding of the information, in particular, in language that is clear, non-technical, concise and comprehensible for investors.

4. The summary shall be made up of the following four sections:

- (a) an introduction, containing warnings;
- (b) key information on the issuer;
- (c) key information on the securities;
- (d) key information on the offer of securities to the public and/or the admission to trading on a regulated market.

5. The section referred to in point (a) of paragraph 4 shall contain:

- (a) the name and international securities identification number (ISIN) of the securities;
- (b) the identity and contact details of the issuer, including its legal entity identifier (LEI);
- (c) where applicable, the identity and contact details of the offeror, including its LEI if the offeror has legal personality, or of the person asking for admission to trading on a regulated market;
- (d) the identity and contact details of the competent authority approving the prospectus and, where different, the competent authority that approved the registration document or the universal registration document;
- (e) the date of approval of the prospectus;

It shall contain the following warnings:

- (a) the summary should be read as an introduction to the prospectus;
- (b) any decision to invest in the securities should be based on a consideration of the prospectus as a whole by the investor;
- (c) where applicable, that the investor could lose all or part of the invested capital and, where the investor's liability is not limited to the amount of the investment, a warning that the investor could lose more than the invested capital and the extent of such potential loss;
- (d) where a claim relating to the information contained in a prospectus is brought before a court, the plaintiff investor might, under national law, have to bear the costs of translating the prospectus before the legal proceedings are initiated;

- (e) civil liability attaches only to those persons who have tabled the summary including any translation thereof, but only where the summary is misleading, inaccurate or inconsistent, when read together with the other parts of the prospectus, or where it does not provide, when read together with the other parts of the prospectus, key information in order to aid investors when considering whether to invest in such securities;
  - (f) where applicable, the comprehension alert required in accordance with point (b) of Article 8(3) of [the *PRIPs Regulation*].
6. The section referred to in point (b) of paragraph 4 shall contain the following information:
- (a) Under a sub-section entitled ‘Who is the issuer of the securities?’, a brief description of the issuer of the securities, including at least the following:
    - (i) its domicile and legal form, its LEI, the law under which it operates and its country of incorporation;
    - (ii) its principal activities;
    - (iii) its major shareholders, including whether it is directly or indirectly owned or controlled and by whom;
    - (iv) the identity of its key managing directors;
    - (v) the identity of its statutory auditors;
  - (b) under a sub-section entitled ‘What is the key financial information regarding the issuer?’ a selection of historical key financial information presented for each financial year of the period covered by the historical financial information, and any subsequent interim financial period accompanied by comparative data from the same period in the prior financial year. The requirement for comparative balance sheet information shall be satisfied by presenting the year-end balance sheet information. Key financial information shall, where applicable, include:
    - (i) pro forma financial information;
    - (ii) a brief description of any qualifications in the audit report relating to the historical financial information;
  - (c) under a sub-section entitled ‘What are the key risks that are specific to the issuer?’ a brief description of the most material risk factors specific to the issuer contained in the

prospectus, while not exceeding the total number of risk factors set out in paragraph 10.

7. The section referred to in point (c) of paragraph 4 shall contain the following information:
  - (a) under a sub-section entitled ‘What are the main features of the securities?’, a brief description of the securities being offered to the public and/or admitted to trading on a regulated market including at least:
    - (i) their type, class and ISIN;
    - (ii) where applicable, their currency, denomination, par value, the number of securities issued and the term of the securities;
    - (iii) the rights attached to the securities;
    - (iv) the relative seniority of the securities in the issuer’s capital structure in the event of insolvency, including, where applicable, information on the level of subordination of the securities and the potential impact on the investment in the event of a resolution under [the *RRD*];
    - (v) any restrictions on the free transferability of the securities;
    - (vi) where applicable, the dividend or payout policy;
  - (b) under a sub-section entitled ‘Where will the securities be traded?’, an indication as to whether the securities are or will be subject to an application for admission to trading on a regulated market or for trading on an MTF and the identity of all the markets where the securities are or are to be traded;
  - (c) where there is a guarantee attached to the securities, under a sub-section entitled ‘Is there a guarantee attached to the securities?’, the following information:
    - (i) a brief description of the nature and scope of the guarantee;
    - (ii) a brief description of the guarantor, including its LEI;
    - (iii) the relevant key financial information for the purpose of assessing the guarantor’s ability to fulfil its commitments under the guarantee; and
    - (iv) a brief description of the most material risk factors pertaining to the guarantor contained in the prospectus

in accordance with Article 16(3), while not exceeding the total number of risk factors set out in paragraph 10;

- (d) under a sub-section entitled ‘What are the key risks that are specific to the securities?’, a brief description of the most material risk factors specific to the securities contained in the prospectus, while not exceeding the total number of risk factors set out in paragraph 10.

Where a key information document is required to be prepared under [the *PRIIPs Regulation*], the issuer, the offeror or the person asking for admission to trading on a regulated market may substitute the content set out in this paragraph with the information set out in points (c) to (i) of Article 8(3) of [the *PRIIPs Regulation*]. Where [the *PRIIPs Regulation*] applies, each Member State acting as a home Member State for the purpose of this Regulation may require issuers, offerors or persons asking for admission to trading on a regulated market to substitute the content set out in this paragraph with the information set out in points (c) to (i) of Article 8(3) of [the *PRIIPs Regulation*] in the prospectuses approved by its competent authority.

Where there is a substitution of content pursuant to the second subparagraph, the maximum length set out in paragraph 3 shall be extended by three additional sides of A4-sized paper. The content of the key information document shall be included as a distinct section of the summary. The page layout of that section shall clearly identify it as the content of the key information document as set out in points (c) to (i) of Article 8(3) of [the *PRIIPs Regulation*].

Where, in accordance with the third subparagraph of Article 8(9), a single summary covers several securities which differ only in some very limited details, such as the issue price or maturity date, the maximum length set out in paragraph 3 shall be extended by two additional sides of A4-sized paper. However, in the event that a key information document is required to be prepared for those securities under [the *PRIIPs Regulation*] and the issuer, the offeror or the person asking for admission to trading on a regulated market proceeds with the substitution of content referred to in the second subparagraph of this paragraph, the maximum length shall be extended by three additional sides of A4-sized paper for each additional security.

Where the summary contains the information referred to in point (c) of the first subparagraph, the maximum length set out in paragraph 3 shall be extended by one additional side of A4-sized paper.

8. The section referred to in point (d) of paragraph 4 shall contain the following information:

- (a) under a sub-section entitled ‘Under which conditions and



timetable can I invest in this security?', where applicable, the general terms, conditions and expected timetable of the offer, the details of the admission to trading on a regulated market, the plan for distribution, the amount and percentage of immediate dilution resulting from the offer and an estimate of the total expenses of the issue and/or offer, including estimated expenses charged to the investor by the issuer or the offeror;

- (b) if different from the issuer, under a sub-section entitled 'Who is the offeror and/or the person asking for admission to trading?', a brief description of the offeror of the securities and/or the person asking for admission to trading on a regulated market, including its domicile and legal form, the law under which it operates and its country of incorporation;
  - (c) under a sub-section entitled 'Why is this prospectus being produced?', a brief description of the reasons for the offer or for the admission to trading on a regulated market, as well as, where applicable:
    - (i) the use and estimated net amount of the proceeds;
    - (ii) an indication of whether the offer is subject to an underwriting agreement on a firm commitment basis, stating any portion not covered;
    - (iii) an indication of the most material conflicts of interest pertaining to the offer or the admission to trading.
9. Under each of the sections described in paragraphs 6, 7 and 8, the issuer may add sub-headings where deemed necessary.
  10. The total number of risk factors included in the sections of the summary referred to in point (c) of paragraph 6 and point (c)(iv) and point (d) of the first subparagraph of paragraph 7 shall not exceed 15.
  11. The summary shall not contain cross-references to other parts of the prospectus or incorporate information by reference.
  12. Where a key information document is required to be prepared for securities offered to the public under [the *PRIIPs Regulation*] and a home Member State requires the issuer, the offeror or the person asking for admission to trading on a regulated market to substitute the content of the key information document in accordance with the second sentence of the second subparagraph of paragraph 7 of this Article, the persons advising on or selling the securities on behalf of the issuer, the offeror or the person asking for admission to trading on a regulated market shall be deemed to have fulfilled, during the offer period, the obligation to provide the key information document

in accordance with Article 13 of [the *PRIPs Regulation*], provided that they instead provide the investors concerned with the summary of the prospectus under the timing and conditions set out in Articles 13 and 14 of that Regulation.

- 2.1.5 EU [Chapter I] of the *Prospectus RTS Regulation* sets out the content and format of presentation of the key financial information referred to in Article 7(6)(b) and (7)(c)(iii) of the *Prospectus Regulation*:

[Article 1

**Minimum content of the key financial information in the summary of a prospectus**

1. The key financial information in the summary of a prospectus shall be made up of the financial information laid down in the Annexes to [OP please insert a reference to the Commission Delegated Regulation supplementing Regulation (EU) 2017/1129 of the European Parliament and of the Council as regards the format, content, scrutiny and approval of the prospectus to be published when securities are offered to the public or admitted to trading on a regulated market, and repealing Commission Regulation (EC) No 809/2004].
2. Where any information referred to in the relevant tables set out in Annexes I to VI to this Regulation is not included in the financial statements of the issuer, the issuer shall disclose a corresponding item from its financial statements instead.
3. The issuer may include additional line items or alternative performance measures in the summary of a prospectus where these are key financial information on the issuer or on the securities being offered or admitted to trading on a regulated market. For the purposes of the first sentence, alternative performance measures shall be financial measures of historical or future financial performance, financial position or cash flows, other than financial measures defined in the applicable financial reporting framework.
4. Issuers who do not fall under any of the types of issuers identified in Articles 2 to 8 shall present the key financial information referred to in the tables that they consider correspond most closely to the type of securities issued.
5. The key financial information shall be presented for the number of years required by [OP please insert a reference to the Commission Delegated Regulation supplementing Regulation (EU) 2017/1129 of the European Parliament and of the Council as regards the format, content, scrutiny and approval of the prospectus to be published when securities are offered to the public or admitted to trading on a regulated market, and repealing Commission Regulation (EC) No 809/2004] for the type of issuance and the type of securities being

issued.

## Article 2

### **Key financial information for non-financial entities issuing equity securities**

Where the issuer is a non-financial entity issuing equity securities, the summary of a prospectus shall contain the key financial information referred to in the tables set out in Annex I.

## Article 3

### **Key financial information for non-financial entities issuing non-equity securities**

Where the issuer is a non-financial entity issuing non-equity securities, the summary of a prospectus shall contain the key financial information referred to in the tables set out in Annex II.

## Article 4

### **Key financial information for credit institutions**

Where the issuer is a credit institution, the summary of a prospectus shall contain the key financial information referred to in the tables set out in Annex III.

## Article 5

### **Key financial information for insurance companies**

Where the issuer is an insurance company, the summary of a prospectus shall contain the key financial information referred to in the tables set out in Annex IV.

## Article 6

### **Key financial information for special purpose vehicles issuing asset backed securities**

Where the issuer is a special purpose vehicle issuing asset backed securities, the prospectus summary shall contain the key financial information referred to in the tables set out in Annex V.

## Article 7

### **Key financial information for closed end funds**

Where the issuer is a closed end fund, the summary of a prospectus shall contain the key financial information referred to in the tables set out in Annex VI.

## Article 8

**Key financial information for guarantors**

Where a guarantee is attached to the securities, the key financial information on the guarantor shall be presented as if the guarantor were the issuer of the same type of security that is the subject of the guarantee using the tables set out in Annexes I to VI. Where the guarantee is given for asset-backed securities, the key financial information on the guarantor shall be presented as if the guarantor were the issuer of the underlying securities.

## Article 9

**Format of the key financial information in the summary of a prospectus**

1. The key financial information shall be presented in tabular format in accordance with the tables of Annexes I to VI to this Regulation.
2. Any historical financial information in the summary of a prospectus, which is not extracted from the financial statements, shall be identified as such.
3. Where pro forma information to be included in the summary of a prospectus affects the key financial information referred to in the relevant table of Annexes I to VI to this Regulation, that pro forma information shall be presented in additional columns in the tables set out in Annexes I to VI to this Regulation or as a separate table. Where necessary for its understanding, the pro forma information shall be accompanied by a brief explanation of the figures presented in the additional columns or separate table.

Where in the case of a significant gross change only qualitative information is included in the prospectus, a statement to that effect shall be included in the summary of that prospectus.

4. Where the issuer has a complex financial history as set out in Article 18 of [OP please insert a reference to the Commission Delegated Regulation supplementing Regulation (EU) 2017/1129 of the European Parliament and of the Council as regards the format, content, scrutiny and approval of the prospectus to be published when securities are offered to the public or admitted to trading on a regulated market, and repealing Commission Regulation (EC) No 809/2004], the key financial information in the summary of the prospectus shall be presented in a manner consistent with the prospectus and using the relevant tables in Annexes I to VI to this Regulation.]

[**Note:** [Annexes I to VI] of the *Prospectus RTS Regulation* [Link to be inserted].]

## Language of the summary

- 2.1.6 EU Article 27(4) of the *Prospectus Regulation* provides as follows in relation to the language of the *summary*:

## Article 27

**Use of language**

...

4. The final terms and the summary of the individual issue shall be drawn up in the same language as the language of the approved base prospectus.

When, in accordance with Article 25(4), the final terms are communicated to the competent authority of the host Member State or, if there is more than one host Member State, to the competent authorities of the host Member States, the following language rules shall apply to the final terms and the summary annexed thereto:

- (a) the summary of the individual issue annexed to the final terms shall be available in the official language or at least one of the official languages of the host Member State, or in another language accepted by the competent authority of the host Member State in accordance with the second subparagraph of paragraph 2 or the second subparagraph of paragraph 3, as applicable;
- (b) where the base prospectus is to be translated pursuant to paragraph 2 or 3, as applicable, the final terms and the summary of the individual issue annexed thereto, shall be subject to the same translation requirements as the base prospectus.

[**Note:** *PRR* 4.1 sets out the *rules* about the language in which the *prospectus* must be drawn up.]

[**Note:** Under article 27(2) and (3) of the *Prospectus Regulation* the competent authority of each *Host State* shall require that the *summary* is translated into its official language. The *FCA* as competent authority of a *Host State* requires a *summary* to be translated into English under *PRR* 4.1.4R.]

## 2.2 Format of prospectus

## Format of prospectus

- 2.2.1 EU Article 6(3) of the *Prospectus Regulation* provides for how a *prospectus* may be drawn up:

## Article 6

**The prospectus**

...

3. The issuer, offeror or person asking for the admission to trading on a regulated market may draw up the prospectus as a single document or as separate documents.

Without prejudice to Article 8(8) and the second subparagraph of Article 7(1), a prospectus composed of separate documents shall divide the required information into a registration document, a securities note and a summary. The registration document shall contain the information relating to the issuer. The securities note shall contain the information concerning the securities offered to the public or to be admitted to trading on a regulated market.

## Prospectuses consisting of separate documents

- 2.2.2 EU Article 10 of the *Prospectus Regulation* provides for drawing up a *prospectus* consisting of separate documents:

## Article 10

**Prospectuses consisting of separate documents**

1. An issuer that has already had a registration document approved by a competent authority shall be required to draw up only the securities note and the summary, where applicable, when securities are offered to the public or admitted to trading on a regulated market. In that case, the securities note and the summary shall be subject to a separate approval.

Where, since the approval of the registration document, there has been a significant new factor, material mistake or material inaccuracy relating to the information included in the registration document which is capable of affecting the assessment of the securities, a supplement to the registration document shall be submitted for approval, at the latest at the same time as the securities note and the summary. The right to withdraw acceptances in accordance with Article 23(2) shall not apply in that case.

The registration document and its supplement, where applicable, accompanied by the securities note and the summary shall constitute a prospectus, once approved by the competent authority.

2. Once approved, the registration document shall be made available to the public without undue delay and in accordance with the arrangements set out in Article 21.
3. An issuer that has already had a universal registration document approved by the competent authority, or that has filed a universal

registration document without prior approval pursuant to the second subparagraph of Article 9(2), shall be required to draw up only the securities note and the summary when securities are offered to the public or admitted to trading on a regulated market.

Where the universal registration document has already been approved, the securities note, the summary and all amendments to the universal registration document filed since the approval of the universal registration document shall be subject to a separate approval.

Where an issuer has filed a universal registration document without prior approval, the entire documentation, including amendments to the universal registration document, shall be subject to approval, notwithstanding the fact that those documents remain separate.

The universal registration document, amended in accordance with Article 9(7) or (9), accompanied by the securities note and the summary shall constitute a prospectus, once approved by the competent authority.

#### Base prospectus

- 2.2.3 EU Article 8 of the *Prospectus Regulation* provides for the content of the *base prospectus*:

#### Article 8

#### **The base prospectus**

1. For non-equity securities, including warrants in any form, the prospectus may, at the choice of the issuer, offeror or person asking for the admission to trading on a regulated market, consist of a base prospectus containing the necessary information concerning the issuer and the securities offered to the public or to be admitted to trading on a regulated market.
2. A base prospectus shall include the following information:
  - (a) a template, entitled 'form of the final terms', to be filled out for each individual issue and indicating the available options with regard to the information to be determined in the final terms of the offer;
  - (b) the address of the website where the final terms will be published.
3. Where a base prospectus contains options with regard to the information required by the relevant securities note, the final terms shall determine which of the options is applicable to the individual issue by referring to the relevant sections of the base prospectus or by replicating such information.

4. The final terms shall be presented in the form of a separate document or shall be included in the base prospectus or in any supplement thereto. The final terms shall be prepared in an easily analysable and comprehensible form.

The final terms shall only contain information that relates to the securities note and shall not be used to supplement the base prospectus. Point (b) of Article 17(1) shall apply in such cases.

5. Where the final terms are neither included in the base prospectus, nor in a supplement, the issuer shall make them available to the public in accordance with the arrangements set out in Article 21 and file them with the competent authority of the home Member State, as soon as practicable upon offering securities to the public and, where possible, before the beginning of the offer of securities to the public or admission to trading on a regulated market.

A clear and prominent statement shall be inserted in the final terms indicating:

- (a) that the final terms have been prepared for the purpose of this Regulation and must be read in conjunction with the base prospectus and any supplement thereto in order to obtain all the relevant information;
- (b) where the base prospectus and any supplement thereto are published in accordance with the arrangements set out in Article 21;
- (c) that a summary of the individual issue is annexed to the final terms.

6. A base prospectus may be drawn up as a single document or as separate documents.

Where the issuer, the offeror or the person asking for admission to trading on a regulated market has filed a registration document for non-equity securities, or a universal registration document in accordance with Article 9, and chooses to draw up a base prospectus, the base prospectus shall consist of the following:

- (a) the information contained in the registration document, or in the universal registration document;
- (b) the information which would otherwise be contained in the relevant securities note, with the exception of the final terms where the final terms are not included in the base prospectus.

7. The specific information on each of the different securities included in a base prospectus shall be clearly segregated.

8. A summary shall only be drawn up once the final terms are included in the base prospectus, or in a supplement, or are filed, and that



summary shall be specific to the individual issue.

9. The summary of the individual issue shall be subject to the same requirements as the final terms, as set out in this Article, and shall be annexed to them.

The summary of the individual issue shall comply with Article 7 and shall provide the following:

- (a) the key information in the base prospectus, including the key information on the issuer;
- (b) the key information in the appropriate final terms, including the key information which was not included in the base prospectus.

Where the final terms relate to several securities which differ only in some very limited details, such as the issue price or maturity date, a single summary of the individual issue may be attached for all those securities, provided the information referring to the different securities is clearly segregated.

10. The information contained in the base prospectus shall, where necessary, be supplemented in accordance with Article 23.
11. An offer of securities to the public may continue after the expiration of the base prospectus under which it was commenced provided that a succeeding base prospectus is approved and published no later than the last day of validity of the previous base prospectus. The final terms of such an offer shall contain a prominent warning on their first page indicating the last day of validity of the previous base prospectus and where the succeeding base prospectus will be published. The succeeding base prospectus shall include or incorporate by reference the form of the final terms from the initial base prospectus and refer to the final terms that are relevant for the continuing offer.

A right of withdrawal pursuant to Article 23(2) shall also apply to investors who have agreed to purchase or subscribe for the securities during the validity period of the previous base prospectus, unless the securities have already been delivered to them.

2.2.4 EU [Chapter III] of the *PR Regulation* provides for the format of a *prospectus*:

[Article 24]

### **Format of a prospectus**

1. Where a prospectus is drawn up as a single document, it shall be composed of the following elements set out in the following order:
  - (a) a table of contents;

- (b) a summary, where required by Article 7 of [the *Prospectus Regulation*];
- (c) the risk factors referred to in Article 16 of [the *Prospectus Regulation*];
- (d) any other information referred to in the Annexes to this Regulation that is to be included in that prospectus.

The issuer, offeror or person asking for admission to trading on a regulated market may decide the order in which the information referred to in the Annexes to this Regulation is set out in the prospectus.

2. Where a prospectus is drawn up as separate documents, the registration document and the securities note shall be composed of the following elements set out in the following order:

- (a) a table of contents;
- (b) the risk factors referred to in Article 16 of [the *Prospectus Regulation*];
- (c) any other information referred to in the Annexes to this Regulation that is to be included in that registration document or that securities note.

The issuer, offeror or person asking for admission to trading on a regulated market may decide the order in which the information referred to in the Annexes to this Regulation is set out in the registration document and the securities note.

3. Where the registration document is drawn up in the form of a universal registration document, the issuer may include the risks factors referred to in point (b) of paragraph 2 amongst the information referred to in point (c) of that paragraph provided that those risk factors remain identifiable as a single section.
4. Where a universal registration document is used for the purposes of Article 9(12) of [the *Prospectus Regulation*], the information contained in that universal registration document shall be presented in accordance with [OP please insert a reference to the Commission Delegated Regulation of 17.12.2018 supplementing Directive 2004/109/EC of the European Parliament and of the Council with regard to regulatory technical standards on the specification of a single electronic reporting format].
5. Where the order of the information referred to in point (d) of paragraph 1 and in point (c) of paragraph 2 is different from the order in which that information is presented in the Annexes to this Regulation, competent authorities may request to provide a list of

cross references indicating the items of those Annexes to which that information corresponds.

The list of cross references referred to in the first subparagraph shall identify any items set out in the Annexes to this Regulation that have not been included in the draft prospectus due to the nature or type of issuer, securities, offer or admission to trading.

6. Where no list of cross-references is requested in accordance with paragraph 5 or is not voluntarily submitted by the issuer, offeror or person asking for admission to trading on a regulated market, it shall be indicated in the margin of the draft prospectus to which information in the draft prospectus the relevant information items set out in the Annexes to this Regulation correspond.

## Article 25

### Format of a base prospectus

1. A base prospectus drawn up as a single document shall be composed of the following elements set out in the following order:
  - (a) a table of contents;
  - (b) general description of the offering programme;
  - (c) the risk factors referred to in Article 16 of [the *Prospectus Regulation*];
  - (d) any other information referred to in the Annexes to this Regulation that is to be included in that prospectus.

The issuer, offeror or person asking for admission to trading on a regulated market may decide the order in which the information referred to in the Annexes to this Regulation is set out in the base prospectus.

2. Where a base prospectus is drawn up as separate documents, the registration document and the securities note shall be composed of the following elements set out in the following order:
  - (a) a table of contents;
  - (b) in the securities note, a general description of the offering programme;
  - (c) the risk factors referred to in Article 16 of [the *Prospectus Regulation*];
  - (d) any other information referred to in the Annexes to this Regulation that is to be included in the registration document and the securities note.

The issuer, offeror or person asking for admission to trading on a regulated market may decide the order in which the information referred to in the Annexes to this Regulation is set out in the registration document and the securities note.

3. An issuer, offeror or person asking for admission to trading on a regulated market may compile in one single document two or more base prospectuses.
4. Where the registration document is drawn up in the form of a universal registration document, the issuer may include the risks factors referred to in point (c) of paragraph 2 amongst the information referred to in point (d) of that paragraph provided that those risk factors remain identifiable as a single section.
5. Where a universal registration document is used for the purposes of Article 9(12) of [the *Prospectus Regulation*], the information contained in that universal registration document shall be presented in accordance with [OP please insert a reference to the Commission Delegated Regulation of 17.12.2018 supplementing Directive 2004/109/EC of the European Parliament and of the Council with regard to regulatory technical standards on the specification of a single electronic reporting format].
6. Where the order of the information referred to in point (d) of paragraphs 1 and 2 is different from the order in which that information is presented in the Annexes to this Regulation, competent authorities may request to provide a list of cross references indicating the items of those Annexes to which that information corresponds.  
  
The list of cross references referred to in the first subparagraph shall identify any items set out in the Annexes to this Regulation that have not been included in the draft base prospectus due to the nature or type of issuer, securities, offer or admission to trading.
7. Where no list of cross-references is requested in accordance with paragraph 6 or is not voluntarily submitted by the issuer, offeror or person asking for admission to trading on a regulated market, it shall be indicated in the margin of the draft base prospectus to which information in the draft base prospectus the relevant information items set out in the Annexes to this Regulation correspond.

## Article 26

### **Information to be included in the base prospectus and the final terms**

1. The information referred to as 'Category A' in Annexes 14 to 19 and 27 to this Regulation shall be included in the base prospectus.

2. The information referred to as ‘Category B’ in Annexes 14 to 19 and 27 to this Regulation shall be included in the base prospectus except for details of that information that are not known at the time of approval of that base prospectus. Such details shall be inserted in the final terms.
3. The information referred to as ‘Category C’ in Annexes 14 to 19 and 27 to this Regulation shall be inserted in the final terms, unless it is known at the time of approval of the base prospectus, in which case it may be inserted in that base prospectus instead.
4. In addition to the information referred to in paragraphs 2 and 3 of this Article, the final terms may only contain the information referred to in Annex 28 to this Regulation. The form of the final terms referred to in Article 8(2)(a) of [the *Prospectus Regulation*] shall indicate which of the information referred to in Annex 28 to this Regulation is to be determined in the final terms.
5. The final terms shall not contradict the information included in the base prospectus.

## Article 27

### Prospectus summary

1. An overview section of a prospectus shall only use the term “summary” if it complies with the requirements laid down in Article 7 of [the *Prospectus Regulation*].
2. Where the summary of a prospectus is to be supplemented in accordance with Article 23 of [the *Prospectus Regulation*], the new information shall be integrated in the summary of that prospectus in a way that enables investors to easily identify the changes. The new information shall be integrated in the summary of the prospectus either by producing a new summary or by supplementing the original summary.]

## 2.3 Minimum information requirements

### Minimum information

- 2.3.1 EU [Chapter II] of the *PR Regulation* provides for the minimum information to be included in a *prospectus*:

#### [Section 1

#### Minimum information to be included in the registration documents

#### Article 2

#### Registration document for equity securities

For equity securities, the registration document shall contain the information referred to in Annex 1 to this Regulation, unless it is drawn up in accordance with Articles 9, 14 or 15 of [the *Prospectus Regulation*].

### Article 3

#### **Universal registration document**

A registration document that is drawn up in accordance with Article 9 of [the *Prospectus Regulation*] shall contain the information referred to in Annex 2 to this Regulation.

### Article 4

#### **Registration document for secondary issuances of equity securities**

A specific registration document for equity securities that is drawn up in accordance with Article 14 of [the *Prospectus Regulation*] shall contain the information referred to in Annex 3 to this Regulation.

### Article 5

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

For units issued by collective investment undertakings of the closed-end type, the registration document shall contain the information referred to in Annex 4.

### Article 6

#### **Registration document for depository receipts issued over shares**

For depository receipts issued over shares, the registration document shall contain the information referred to in Annex 5.

### Article 7

#### **Registration document for retail non-equity securities**

For non-equity securities other than those referred to in Article 8(2) of this Regulation, the registration document shall contain the information referred to in Annex 6 to this Regulation, unless it is drawn up in accordance with Articles 9, 14 or 15 of [the *Prospectus Regulation*] or contains the information referred to in Annex 1 to this Regulation.

### Article 8

#### **Registration document for wholesale non-equity securities**

1. For non-equity securities as referred to in paragraph 2, the registration document shall contain the information referred to in

Annex 7 to this Regulation, unless the registration document is drawn up in accordance with Articles 9, 14 or 15 of [the *Prospectus Regulation*] or contains the information referred to in Annexes 1 or 6 to this Regulation.

2. The requirement referred to in paragraph 1 shall apply to non-equity securities that comply with one of the following conditions:
  - (a) they are to be traded only on a regulated market, or a specific segment thereof, to which only qualified investors can have access for the purposes of trading in such securities;
  - (b) they have a denomination per unit of at least than EUR 100 000 or, where there is no individual denomination, can only be acquired on issue for at least EUR 100 000 per security.

#### Article 9

##### **Registration document for secondary issuances of non-equity securities**

A specific registration document for non-equity securities that is drawn up in accordance with Article 14 of [the *Prospectus Regulation*] shall contain the information referred to in Annex 8 to this Regulation, unless it contains the information referred to in Annex 3 to this Regulation.

#### Article 10

##### **Registration document for asset-backed securities**

By way of derogation from Articles 7 and 8, a registration document that is drawn up for asset-backed securities, shall contain the information referred to in Annex 9.

#### Article 11

##### **Registration document for non-equity securities issued by third countries and their regional and local authorities**

By way of derogation from Articles 7 and 8, a registration document that is drawn up for non-equity securities issued by third countries or their regional or local authorities, shall contain the information referred to in Annex 10.

## **Section 2**

### **Minimum information to be included in the securities note**

#### Article 12

##### **Securities note for equity securities or units issued by collective investment undertakings of the closed-end type**

For equity securities or units issued by collective investment undertakings of the closed-end type, the securities note shall contain the information referred to in Annex 11 to this Regulation, unless it is drawn up in accordance with Articles 14 or 15 of [the *Prospectus Regulation*].

#### Article 13

##### **Securities note for secondary issuances of equity securities or of units issued by collective investment undertakings of the closed-end type**

A specific securities note for equity securities or units issued by collective investment undertakings of the closed-end type that is drawn up in accordance with Article 14 of [the *Prospectus Regulation*] shall contain the information referred to in Annex 12 to this Regulation.

#### Article 14

##### **Securities note for depository receipts issued over shares**

For depository receipts issued over shares, the securities note shall contain the information referred to in Annex 13.

#### Article 15

##### **Securities note for retail non-equity securities**

For non-equity securities other than those referred to in Article 8(2) of this Regulation, the securities note shall contain the information referred to in Annex 14 to this Regulation, unless a specific securities note is drawn up in accordance with Articles 14 or 15 of [the *Prospectus Regulation*].

#### Article 16

##### **Securities note for wholesale non-equity securities**

For non-equity securities as referred to in Article 8(2) of this Regulation, the securities note shall contain the information referred to in Annex 15 to this Regulation, unless it contains the information referred to in Annex 14 to this Regulation or unless a specific securities note is drawn up in accordance with Articles 14 or 15 of [the *Prospectus Regulation*].

#### Article 17

##### **Securities note for secondary issuances of non-equity securities**

A specific securities note for non-equity securities that is drawn up in accordance with Article 14 of [the *Prospectus Regulation*] shall contain the information referred to in Annex 16 to this Regulation.

### **Section 3**



## **Additional information to be included in the prospectus**

### Article 18

#### **Complex financial history and significant financial commitment of issuers of equity securities**

1. Where the issuer of an equity security has a complex financial history, or has made a significant financial commitment, additional information with respect to an entity other than the issuer shall be included in the prospectus, as referred to in paragraph 2.
2. With respect to an entity, other than the issuer, additional information shall be all information referred to in Annexes 1 and 20 to this Regulation that investors need to make an informed assessment as referred to in Article 6(1) and Article 14(2) of [the *Prospectus Regulation*], as if that entity were the issuer of the equity security.

Such additional information shall be preceded by a clear explanation of why that information is needed for investors to make an informed assessment and shall specify the effects of the complex financial history or of the significant financial commitment on the issuer or on the issuer's business.

3. For the purposes of paragraph 1, an issuer shall be considered as having a complex financial history where all of the following conditions are fulfilled:
  - (a) at the time of drawing up the prospectus, the information referred to in the relevant Annexes does not represent the issuer's undertaking accurately;
  - (b) the inaccuracy referred to in point (a) affects the ability of investors to make an informed assessment as referred to in Article 6(1) and Article 14(2) of [the *Prospectus Regulation*];
  - (c) additional information relating to an entity other than the issuer is needed for investors to make an informed assessment as referred to in Article 6(1) and Article 14(2) of [the *Prospectus Regulation*].
4. For the purposes of paragraph 1, a significant financial commitment is a binding agreement to undertake a transaction that is likely to give rise to a variation of more than 25 % relative to one or more indicators of the size of the issuer's business.

### Article 19

#### **Securities that are exchangeable for or convertible into shares**

1. Where securities are exchangeable for or convertible into shares that are admitted to trading on a regulated market, the securities note shall contain as additional information the information referred to in item 2.2.2 of Annex 17.
2. Where securities are exchangeable for or convertible into shares that are or will be issued by the issuer or by an entity belonging to that issuer's group and that are not admitted to trading on a regulated market, the securities note shall also contain the following additional information:
  - (a) the information referred to in items 3.1 and 3.2 of Annex 11 in respect of that issuer or of that entity belonging to the issuer's group;
  - (b) the information referred to in Annex 18 in respect of the underlying share.
3. Where securities are exchangeable for or convertible into shares that are or will be issued by a third party issuer and that are not admitted to trading on a regulated market, the securities note shall contain as additional information the information referred to in Annex 18.

## Article 20

### **Securities giving rise to payment or delivery obligations linked to an underlying asset**

1. For securities other than those referred to in Article 19 that give the right to subscribe or to acquire shares that are or will be issued by the issuer or by an entity belonging to that issuer's group and that are admitted to trading on a regulated market, the securities note shall contain as additional information the information referred to in Annex 17.
2. For securities other than those referred to in Article 19 that give the right to subscribe or acquire shares that are or will be issued by the issuer or by an entity belonging to that issuer's group and that are not admitted to trading on a regulated market, the securities note shall also contain the following additional information:
  - (a) the information referred to in Annex 17 except for the information referred to in item 2.2.2 of that Annex;
  - (b) the information referred to in Annex 18 in respect of the underlying share.
3. For securities other than those referred to in Article 19 that are linked to an underlying other than shares referred to in paragraphs 1 and 2 of this Article, the securities note shall contain as additional information the information referred to in Annex 17.

## Article 21

**Asset backed securities**

For asset-backed securities, the securities notes shall also contain the additional information referred to in Annex 19.

## Article 22

**Guarantees**

For non-equity securities that include guarantees, the securities notes shall also contain the additional information referred to in Annex 21.

## Article 23

**Consent**

Where the issuer or the person responsible for drawing up a prospectus consents to its use as referred to in the second subparagraph of Article 5(1) of [the *Prospectus Regulation*], the prospectus shall contain the following additional information:

- (a) the information referred to in items 1 and 2A of Annex 22 to this Regulation where the consent is provided to one or more specified financial intermediaries;
- (b) the information referred to in items 1 and 2B of Annex 22 to this Regulation where the consent is given to all financial intermediaries.]

[**Note:** Annexes to the *PR Regulation* are set out for information in *PRR App 2*.]

Final offer price and amount of securities not included in prospectus

- 2.3.2 EU Article 17 of the *Prospectus Regulation* provides for where the final offer price and amount of *transferable securities* are not included in the *prospectus*:

## Article 17

**Final offer price and amount of securities**

1. Where the final offer price and/or amount of securities to be offered to the public, whether expressed in number of securities or as an aggregate nominal amount, cannot be included in the prospectus:
  - (a) the acceptances of the purchase or subscription of securities may be withdrawn for not less than two working days after the final offer price and/or amount of securities to be offered

to the public has been filed; or

- (b) the following shall be disclosed in the prospectus:
  - (i) the maximum price and/or the maximum amount of securities, as far as they are available; or
  - (ii) the valuation methods and criteria, and/or conditions, in accordance with which the final offer price is to be determined and an explanation of any valuation methods used.

- 2. The final offer price and amount of securities shall be filed with the competent authority of the home Member State and made available to the public in accordance with the arrangements set out in Article 21(2).

#### Risk factors

- 2.3.3 EU Article 16(1) to (3) of the *Prospectus Regulation* provides for the format and content of the risk factors to be included in a *prospectus*:

#### Article 16

##### **Risk factors**

- 1. The risk factors featured in a prospectus shall be limited to risks which are specific to the issuer and/or to the securities and which are material for taking an informed investment decision, as corroborated by the content of the registration document and the securities note.

When drawing up the prospectus, the issuer, the offeror or the person asking for admission to trading on a regulated market shall assess the materiality of the risk factors based on the probability of their occurrence and the expected magnitude of their negative impact.

Each risk factor shall be adequately described, explaining how it affects the issuer or the securities being offered or to be admitted to trading. The assessment of the materiality of the risk factors provided for in the second subparagraph may also be disclosed by using a qualitative scale of low, medium or high.

The risk factors shall be presented in a limited number of categories depending on their nature. In each category the most material risk factors shall be mentioned first according to the assessment provided for in the second subparagraph.

- 2. Risk factors shall also include those resulting from the level of subordination of a security and the impact on the expected size or timing of payments to holders of the securities in the event of bankruptcy, or any other similar procedure, including, where

relevant, the insolvency of a credit institution or its resolution or restructuring in accordance with [RRD].

3. Where there is a guarantee attached to the securities, the prospectus shall contain the specific and material risk factors pertaining to the guarantor to the extent that they are relevant to the guarantor's ability to fulfil its commitment under the guarantee.
4. In order to encourage appropriate and focused disclosure of risk factors, ESMA shall develop guidelines to assist competent authorities in their review of the specificity and materiality of risk factors and of the presentation of risk factors across categories depending on their nature.

[**Note:** *ESMA guidelines on risk factors* drafted pursuant to article 16(4) of the *Prospectus Regulation*.]

#### Hyperlinks

- 2.3.4 EU [Article 10(1)] of the *Prospectus RTS Regulation* addresses hyperlinks within *prospectuses*:

[Article 10

#### **Publication of the prospectus**

1. Where a prospectus, whether a single document or consisting of separate documents, contains hyperlinks to websites, it shall include a statement to the effect that the information on the websites does not form part of the prospectus and has not been scrutinised or approved by the competent authority. That requirement shall not apply to hyperlinks to information that is incorporated by reference.]

## **2.4 Universal registration document**

### Universal registration document

- 2.4.1 EU Article 9(1) to (13) of the *Prospectus Regulation* provides:

Article 9

#### **The universal registration document**

1. Any issuer whose securities are admitted to trading on a regulated market or an MTF may draw up every financial year a registration document in the form of a universal registration document describing the company's organisation, business, financial position, earnings and prospects, governance and shareholding structure.
2. Any issuer that chooses to draw up a universal registration document every financial year shall submit it for approval to the

competent authority of its home Member State in accordance with the procedure set out in Article 20(2) and (4).

After the issuer has had a universal registration document approved by the competent authority for two consecutive financial years, subsequent universal registration documents may be filed with the competent authority without prior approval.

Where the issuer thereafter fails to file a universal registration document for one financial year, the benefit of filing without prior approval shall be lost and all subsequent universal registration documents shall be submitted to the competent authority for approval until the condition set out in the second subparagraph is met again.

The issuer shall indicate in its application to the competent authority whether the universal registration document is submitted for approval or filed without prior approval.

Where the issuer referred to in the second subparagraph of this paragraph requests the notification of its universal registration document pursuant to Article 26, it shall submit its universal registration document for approval, including any amendments thereto which were previously filed.

3. Issuers which, prior to 21 July 2019, have had a registration document, drawn up in accordance with Annex I to [the *PD Regulation*], approved by a competent authority for at least two consecutive financial years and have thereafter filed, in accordance with Article 12(3) of [the *PD*], or got approved such a registration document every year, shall be allowed to file a universal registration document without prior approval in accordance with the second subparagraph of paragraph 2 of this Article from 21 July 2019.
4. Once approved or filed without prior approval, the universal registration document, as well as the amendments thereto referred to in paragraphs 7 and 9 of this Article, shall be made available to the public without undue delay, in accordance with the arrangements set out in Article 21.
5. The universal registration document shall comply with the language requirements laid down in Article 27.
6. Information may be incorporated by reference into a universal registration document under the conditions set out in Article 19.
7. Following the filing or approval of a universal registration document, the issuer may at any time update the information it contains by filing an amendment thereto with the competent authority. Subject to the first and second subparagraphs of Article 10(3), the filing of the amendment with the competent authority shall not require approval.

8. The competent authority may at any time review the content of any universal registration document which has been filed without prior approval, as well as the content of any amendments thereto.

The review by the competent authority shall consist in scrutinising the completeness, the consistency and the comprehensibility of the information given in the universal registration document and any amendments thereto.

9. Where the competent authority, in the course of the review, finds that the universal registration document does not meet the standards of completeness, comprehensibility and consistency, or that amendments or supplementary information are needed, it shall notify it to the issuer.

A request for amendment or supplementary information addressed by the competent authority to the issuer needs only be taken into account by the issuer in the next universal registration document filed for the following financial year, except where the issuer wishes to use the universal registration document as a constituent part of a prospectus submitted for approval. In that case, the issuer shall file an amendment to the universal registration document at the latest upon submission of the application referred to in Article 20(6).

By way of derogation from the second subparagraph, where the competent authority notifies the issuer that its request for amendment or supplementary information concerns a material omission or a material mistake or material inaccuracy, which is likely to mislead the public with regard to facts and circumstances essential for an informed assessment of the issuer, the issuer shall file an amendment to the universal registration document without undue delay.

The competent authority may request that the issuer produces a consolidated version of the amended universal registration document, where such a consolidated version is necessary to ensure comprehensibility of the information provided in that document. An issuer may voluntarily include a consolidated version of its amended universal registration document in an annex to the amendment.

10. Paragraphs 7 and 9 shall only apply where the universal registration document is not in use as a constituent part of a prospectus. Whenever a universal registration document is in use as a constituent part of a prospectus, only Article 23 on supplementing the prospectus shall apply between the time when the prospectus is approved and the final closing of the offer of securities to the public or, as the case may be, the time when trading on a regulated market begins, whichever occurs later.

11. An issuer fulfilling the conditions set out in the first or second subparagraph of paragraph 2 or in paragraph 3 of this Article shall

have the status of frequent issuer and shall benefit from the faster approval process in accordance with Article 20(6), provided that:

- (a) upon the filing or submission for approval of each universal registration document, the issuer provides written confirmation to the competent authority that, to the best of its knowledge, all regulated information which it was required to disclose under [the *Transparency Directive*], if applicable, and under [the *Market Abuse Regulation*] has been filed and published in accordance with those acts over the last 18 months or over the period since the obligation to disclose regulated information commenced, whichever is the shorter; and
- (b) where the competent authority has undertaken a review as referred to in paragraph 8, the issuer has amended its universal registration document in accordance with paragraph 9.

Where any of the above conditions is not fulfilled by the issuer, the status of frequent issuer shall be lost.

12. Where the universal registration document filed with or approved by the competent authority is made public at the latest four months after the end of the financial year, and contains the information required to be disclosed in the annual financial report referred to in Article 4 of [the *Transparency Directive*], the issuer shall be deemed to have fulfilled its obligation to publish the annual financial report required under that Article.

Where the universal registration document, or an amendment thereto, is filed or approved by the competent authority and made public at the latest three months after the end of the first six months of the financial year, and contains the information required to be disclosed in the half-yearly financial report referred to in Article 5 of [the *Transparency Directive*], the issuer shall be deemed to have fulfilled its obligation to publish the half-yearly financial report required under that Article.

In the cases referred to in the first and second subparagraph, the issuer:

- (a) shall include in the universal registration document a cross reference list identifying where each item required in the annual and half-yearly financial reports can be found in the universal registration document;
- (b) shall file the universal registration document in accordance with Article 19(1) of [the *Transparency Directive*] and make it available to the officially appointed mechanism referred to in Article 21(2) of that Directive;



- (c) shall include in the universal registration document a responsibility statement using the terms required under point (c) of Article 4(2) and point (c) of Article 5(2) of [the *Transparency Directive*].

- 13. Paragraph 12 shall only apply where the home Member State of the issuer for the purposes of this Regulation is also the home Member State for the purposes of [the *Transparency Directive*], and where the language of the universal registration document fulfils the conditions set out in Article 20 of that Directive.

#### Minimum information

- 2.4.2 EU [Article 3] of the *PR Regulation* provides for the minimum information to be included in a *universal registration document*. [Article 3] is reproduced in *PRR 2.3.1EU*.

## 2.5 Simplified prospectus regime for secondary issuances

#### Simplified prospectus

- 2.5.1 EU Article 14(1) of the *Prospectus Regulation* provides:

#### Article 14

#### Simplified disclosure regime for secondary issuances

- 1. The following persons may choose to draw up a simplified prospectus under the simplified disclosure regime for secondary issuances, in the case of an offer of securities to the public or of an admission to trading of securities on a regulated market:
  - (a) issuers whose securities have been admitted to trading on a regulated market or an SME growth market continuously for at least the last 18 months and who issue securities fungible with existing securities which have been previously issued;
  - (b) issuers whose equity securities have been admitted to trading on a regulated market or an SME growth market continuously for at least the last 18 months and who issue non-equity securities;
  - (c) offerors of securities admitted to trading on a regulated market or an SME growth market continuously for at least the last 18 months.

The simplified prospectus shall consist of a summary in accordance with Article 7, a specific registration document which may be used by persons referred to in points (a), (b) and (c) of the first subparagraph of this paragraph and a specific securities note which may be used by persons referred to in points (a) and (c) of that

subparagraph.

- 2.5.2 EU Article 14(2) of the *Prospectus Regulation* provides for the content of a simplified *prospectus*:

...

2. By way of derogation from Article 6(1), and without prejudice to Article 18(1), the simplified prospectus shall contain the relevant reduced information which is necessary to enable investors to understand:
  - (a) the prospects of the issuer and the significant changes in the business and the financial position of the issuer and the guarantor that have occurred since the end of the last financial year, if any;
  - (b) the rights attaching to the securities;
  - (c) the reasons for the issuance and its impact on the issuer, including on its overall capital structure, and the use of the proceeds.

The information contained in the simplified prospectus shall be written and presented in an easily analysable, concise and comprehensible form and shall enable investors to make an informed investment decision. It shall also take into account the regulated information that has already been disclosed to the public pursuant to [the *Transparency Directive*], where applicable, and [the *Market Abuse Regulation*].

Reduced information in a simplified prospectus

- 2.5.3 EU [Articles 4, 9, 13 and 17] of the *PR Regulation* specify the reduced information to be included in a simplified *prospectus*. These are reproduced in *PRR 2.3.1EU*.

## 2.6 EU Growth prospectus

### 2.6.1 EU Growth prospectus

EU Article 15(1) of the *Prospectus Regulation* provides:

Article 15

#### EU Growth prospectus

1. The following persons may choose to draw up an EU Growth prospectus under the proportionate disclosure regime set out in this Article in the case of an offer of securities to the public provided that they have no securities admitted to trading on a regulated market:

- (a) SMEs;
- (b) issuers, other than SMEs, whose securities are traded or are to be traded on an SME growth market, provided that those issuers had an average market capitalisation of less than EUR 500 000 000 on the basis of end-year quotes for the previous three calendar years;
- (c) issuers, other than those referred to in points (a) and (b), where the offer of securities to the public is of a total consideration in the Union that does not exceed EUR 20 000 000 calculated over a period of 12 months, and provided that such issuers have no securities traded on an MTF and have an average number of employees during the previous financial year of up to 499;
- (d) offerors of securities issued by issuers referred to in points (a) and (b).

An EU Growth prospectus under the proportionate disclosure regime shall be a document of a standardised format, written in a simple language and which is easy for issuers to complete. It shall consist of a specific summary based on Article 7, a specific registration document and a specific securities note. The information in the EU Growth prospectus shall be presented in a standardised sequence in accordance with the delegated act referred to in paragraph 2.

#### Reduced information in an EU Growth prospectus

- 2.6.2 EU [Chapter IV] of the *PR Regulation* specifies the reduced information to be included in an EU Growth *prospectus*:

[Article 28]

#### **EU Growth registration document for equity securities**

A specific registration document for equity securities that is drawn up in accordance with Article 15 of [the *Prospectus Regulation*] shall contain the information referred to in Annex 24 to this Regulation.

Article 29

#### **EU Growth registration document for non-equity securities**

A specific registration document for non-equity securities that is drawn up in accordance with Article 15 of [the *Prospectus Regulation*] shall contain the information referred to in Annex 25 to this Regulation.

Article 30

### **EU Growth securities note for equity securities**

A specific securities note for equity securities that is drawn up in accordance with Article 15 of [the *Prospectus Regulation*] shall contain the information referred to in Annex 26 to this Regulation.

Article 31

### **EU Growth securities note for non-equity securities**

A specific securities note for non-equity securities that is drawn up in accordance with Article 15 of [the *Prospectus Regulation*] shall contain the information referred to in Annex 27 to this Regulation.

Article 32

### **Format of the EU Growth prospectus**

1. An EU Growth prospectus that is drawn up as a single document shall be composed of the following elements in the following order:
  - (a) a table of contents;
  - (b) where applicable, all information incorporated by reference in accordance with Article 19 of [the *Prospectus Regulation*];
  - (c) the specific summary;
  - (d) where the EU Growth prospectus is drawn up in the form of a base prospectus, a general description of the offering programme;
  - (e) the information referred to in section 1 of Annex 24 or section 1 of Annex 25 to this Regulation, depending on the type of securities;
  - (f) the information referred to in section 2 of Annex 24 or section 2 of Annex 25 to this Regulation, depending on the type of securities;
  - (g) where equity securities are issued by an issuer with a market capitalisation above EUR 200 000 000, the information referred to in section 2 of Annex 26 to this Regulation;
  - (h) the information referred to in section 3 of Annex 24 and section 3 of Annex 26, or the information referred to in section 3 of Annex 25 and section 2 of Annex 27, depending on the type of securities;
  - (i) the information referred to in section 4 of Annex 26 or in section 3 of Annex 27 to this Regulation, depending on the

type of securities;

- (j) the information referred to in section 5 of Annex 26 or in section 4 of Annex 27 to this Regulation, depending on the type of securities;
- (k) the information referred to in section 4 of Annex 24 or section 4 of Annex 25, depending on the type of securities;
- (l) the information referred to in section 5 of Annex 24 or section 5 of Annex 25 to this Regulation, depending on the type of securities;
- (m) the information referred to in section 6 of Annex 24 or section 6 of Annex 25 to this Regulation, depending on the type of securities;
- (n) where non-equity securities include guarantees, the information referred to in section 5 of Annex 27 to this Regulation;
- (o) the information referred to in section 7 of Annex 24 or section 7 of Annex 25 to this Regulation, depending on the type of securities.

2. Where an EU Growth prospectus is drawn up as separate documents, the EU Growth registration document and the EU Growth securities note shall contain the following elements in the following order:

- (a) EU Growth registration document:
  - (i) a table of contents;
  - (ii) where applicable, all information incorporated by reference in accordance with Article 19 of [the *Prospectus Regulation*];
  - (iii) any other information referred to in Annex 24 or 25 to this Regulation that, depending on the type of securities, is to be included in the EU Growth registration document following the order of the sections set out in those Annexes.
- (b) EU Growth securities note:
  - (i) a table of contents;
  - (ii) where applicable, all information incorporated by reference in accordance with Article 19 of [the *Prospectus Regulation*];

- (iii) a general description of the programme, in the case of a base prospectus;
  - (iv) any other information referred to in Annex 26 or 27 to this Regulation that, depending on the type of securities, is to be included in the EU Growth securities note following the order of the sections set out in those Annexes.
3. An EU Growth prospectus drawn up either as a single document or as separate documents may take the form of a base prospectus.
  4. The SMEs, issuers and offerors referred to in Article 15(1) of [the *Prospectus Regulation*] shall follow the order of the sections of the Annexes to this Regulation. They may however deviate from the order of the information items within those sections.

### Article 33

#### **Specific summary for the EU Growth prospectus**

1. The specific summary for the EU Growth prospectus shall provide the key information that investors need to understand the nature and the risks of the issuer, of the guarantor and of the securities that are being offered.
2. The content of the specific summary shall be accurate, fair, clear and not misleading.
3. The specific summary shall be consistent with the other parts of the EU Growth prospectus.
4. The specific summary shall be drawn up as a short document written in a concise manner and shall have a maximum length of six sides of A4-sized paper when printed. The specific summary shall:
  - (a) be presented and laid out in a way that is easy to read, using characters of readable size;
  - (b) be written in a clear, non-technical and concise language that facilitates the understanding of the information and its comprehensibility by investors.

The first subparagraph shall also apply where information is presented in a tabular format.

5. The specific summary shall contain the information referred to in Annex 23 to this Regulation.
6. The specific summary shall not contain cross-references to other parts of the EU Growth prospectus or incorporate information by

reference.

7. The specific summary may use sub-headings to present the information referred to in sections 2, 3 and 4 of Annex 22 to this Regulation.
8. The total number of risk factors referred to in items 2.3.1, 3.3(d) and 3.4.1 of Annex 23 to this Regulation and included in the specific summary shall not exceed 15.
9. Where securities are also subject to Regulation (EU) No 1286/2014 of the European Parliament and of the Council, the competent authority of the home Member State may require the SMEs, the issuers and offerors referred to in Article 15(1) of [the *Prospectus Regulation*] to substitute the information referred to in section 3 of Annex 23 to this Regulation with the information set out in points (c) to (i) of Article 8(3) of Regulation (EU) No 1286/2014.
10. Where the substitution referred to in paragraph 9 is not required by the competent authority of the home Member State, the SMEs, the issuers and offerors referred to in Article 15(1) of [the *Prospectus Regulation*] may substitute the information referred to in section 3 of Annex 23 to this Regulation with the information set out in points (c) to (i) of Article 8(3) of Regulation (EU) No 1286/2014.
11. Where the information referred to in paragraphs 9 and 10 is substituted, it shall be included as a distinct section of the specific summary and that section shall clearly be identified as including the information set out in points (c) to (i) of Article 8(3) of Regulation (EU) No 1286/2014.
12. The maximum length of the specific summary referred to in paragraph 4 shall be extended by:
  - (a) one additional side of A4-sized paper where the specific summary contains information about a guarantee attached to the securities;
  - (b) two additional sides of A4-sized paper where a specific summary covers several securities which differ only in very limited details such as issue price or maturity date;
  - (c) three additional sides of A4-sized paper where there is a substitution of information as referred to in paragraphs 9 and 10.

For the purposes of point (c), three additional sides of A4-sized paper may be used for each security where the specific summary covers several securities which differ only in very limited details such as issue price or maturity date.

## Article 34

**Supplements to the specific summary for the EU Growth prospectus**

Where the specific summary of an EU Growth prospectus is to be supplemented in accordance with Article 23 of [the *Prospectus Regulation*], the new information shall be integrated in the specific summary of that EU Growth prospectus in a way that enables investors to easily identify the changes. The new information shall be integrated in the specific summary of the EU Growth prospectus either by producing a new specific summary or by supplementing the original specific summary.]

**2.7 Incorporation by reference**

## Incorporation by reference

- 2.7.1 EU Article 19(1) to (3) of the *Prospectus Regulation* provides for how information may be incorporated by reference in a *prospectus*:

## Article 19

**Incorporation by reference**

1. Information may be incorporated by reference in a prospectus where it has been previously or simultaneously published electronically, drawn up in a language fulfilling the requirements of Article 27 and where it is contained in one of the following documents:
  - (a) documents which have been approved by a competent authority, or filed with it, in accordance with this Regulation or [the *PD*];
  - (b) documents referred to in points (f) to (i) of Article 1(4) and points (e) to (h) and point (j)(v) of the first subparagraph of Article 1(5);
  - (c) regulated information;
  - (d) annual and interim financial information;
  - (e) audit reports and financial statements;
  - (f) management reports as referred to in Chapter 5 of [the *Accounting Directive*];
  - (g) corporate governance statements as referred to in Article 20 of [the *Accounting Directive*];
  - (h) reports on the determination of the value of an asset or a company;



- (i) remuneration reports as referred to in Article 9b of Directive 2007/36/EC of the European Parliament and of the Council;
- (j) annual reports or any disclosure of information required under Articles 22 and 23 of [AIFMD];
- (k) memorandum and articles of association.

Such information shall be the most recent available to the issuer.

Where only certain parts of a document are incorporated by reference, a statement shall be included in the prospectus that the non-incorporated parts are either not relevant for the investor or covered elsewhere in the prospectus.

[**Note:** “Regulated information” is defined in the *Prospectus Regulation* as information defined in point (k) of article 2(1) of the *Transparency Directive*.]

2. When incorporating information by reference, issuers, offerors or persons asking for admission to trading on a regulated market shall ensure accessibility of the information. In particular, a cross-reference list shall be provided in the prospectus in order to enable investors to identify easily specific items of information, and the prospectus shall contain hyperlinks to all documents containing information which is incorporated by reference.
3. Where possible alongside the first draft of the prospectus submitted to the competent authority, and in any case during the prospectus review process, the issuer, the offeror or the person asking for admission to trading on a regulated market shall submit in searchable electronic format any information which is incorporated by reference into the prospectus, unless such information has already been approved by or filed with the competent authority approving the prospectus.

## 2.8 Omission of information

### Omission of information

- 2.8.1 EU Article 18(1) to (3) of the *Prospectus Regulation* provides for the circumstances in which certain information may be omitted from the *prospectus*:

#### Article 18

### Omission of information

1. The competent authority of the home Member State may authorise the omission from the prospectus, or constituent parts thereof, of certain information to be included therein, where it considers that any of the following conditions is met:

- (a) disclosure of such information would be contrary to the public interest;
- (b) disclosure of such information would be seriously detrimental to the issuer or to the guarantor, if any, provided that the omission of such information would not be likely to mislead the public with regard to facts and circumstances essential for an informed assessment of the issuer or guarantor, if any, and of the rights attached to the securities to which the prospectus relates;
- (c) such information is of minor importance in relation to a specific offer or admission to trading on a regulated market and would not influence the assessment of the financial position and prospects of the issuer or guarantor, if any.

The competent authority shall submit a report to ESMA on a yearly basis regarding the information the omission of which it has authorised.

- 2. Subject to adequate information being provided to investors, where, exceptionally, certain information required to be included in a prospectus, or constituent parts thereof, is inappropriate to the sphere of activity or to the legal form of the issuer or of the guarantor, if any, or to the securities to which the prospectus relates, the prospectus, or constituent parts thereof, shall contain information equivalent to the required information, unless no such information exists.
- 3. Where securities are guaranteed by a Member State, an issuer, an offeror or a person asking for admission to trading on a regulated market, when drawing up a prospectus in accordance with Article 4, shall be entitled to omit information pertaining to that Member State.

#### Request to omit information

2.8.2 G [Article 42(2)] of the *PR Regulation* sets out requirements regarding the submission of requests to omit information from a prospectus. The *FCA* considers that a reasoned request for this purpose would:

- (1) be in writing from the *applicant*;
- (2) identify the specific information concerned and the reasons for its omission; and
- (3) State why in the *applicant's* opinion one or more of the grounds in article 18(1) of the *Prospectus Regulation* applies.

### 3 Approval and publication of prospectus

### 3.1 Approval of prospectus

Criteria for scrutiny and approval of prospectus

- 3.1.1 EU [Chapter V] of the *PR Regulation* sets out requirements regarding scrutiny and approval of the *prospectus* and review of the *universal registration document*:

[Article 35]

#### Scope of the scrutiny

For the purposes of the scrutiny of the prospectus and the review of the universal registration document, references to the prospectus shall mean the prospectus or any of its constituent parts, including a universal registration document whether submitted for approval or filed without prior approval and any amendments thereto as well as supplements to the prospectus.

Article 36

#### Criteria for the scrutiny of the completeness of the information contained in the prospectus

1. For the purposes of scrutinising the completeness of the information in a draft prospectus, competent authorities shall consider all of the following:
  - (a) whether the draft prospectus is drawn up in accordance with [the *Prospectus Regulation*] and this Regulation, depending on the type of issuer, the type of issuance, the type of security and the type of offer or admission to trading;
  - (b) whether the issuer has a complex financial history or has made a significant financial commitment, as referred to in Article 18.
2. For the purposes of point (b) of paragraph 1, competent authorities may require the issuer to include, modify or remove information from a draft prospectus, taking into account the following:
  - (a) the type of securities;
  - (b) the information already included in the prospectus and the existence and content of information already included in a prospectus of the entity other than the issuer, as well as the applicable accounting and auditing principles;
  - (c) the economic nature of the transactions by which the issuer has acquired, or disposed of, its undertaking or any part of it, and the specific nature of that undertaking;

- (d) whether the issuer can obtain with reasonable effort information about the entity other than the issuer.

#### Article 37

#### **Criteria for the scrutiny of the comprehensibility of the information contained in the prospectus**

1. For the purposes of scrutinising the comprehensibility of the information in a draft prospectus, competent authorities shall consider all of the following:
  - (a) whether the draft prospectus has a clear and detailed table of contents;
  - (b) whether the draft prospectus is free from unnecessary reiterations;
  - (c) whether related information is grouped together;
  - (d) whether the draft prospectus uses an easily readable font size;
  - (e) whether the draft prospectus has a structure that enables investors to understand its contents;
  - (f) whether the draft prospectus defines the components of mathematical formulas and, where applicable, clearly describes the product structure;
  - (g) whether the draft prospectus is written in plain language;
  - (h) whether the draft prospectus clearly describes the nature of the issuer's operations and its principal activities;
  - (i) whether the draft prospectus explains trade or industry specific terminology.

However, competent authorities shall not be required to consider points (g), (h) and (i) where a draft prospectus is to be used exclusively for the purposes of admission to trading on a regulated market of non-equity securities for which a summary is not required by Article 7 of [the *Prospectus Regulation*].

2. For the purposes of the first paragraph, competent authorities may, on a case-by-case basis and in addition to the information referred to in Article 7 of [the *Prospectus Regulation*] and Article 33 of this Regulation, require that certain information provided in the draft prospectus be included in the summary.

#### Article 38

### **Criteria for the scrutiny of the consistency of the information contained in the prospectus**

For the purposes of scrutinising the consistency of the information in a draft prospectus, the competent authority shall consider all of the following:

- (a) whether the draft prospectus is free of material discrepancies between the different pieces of information provided therein, including any information incorporated by reference;
- (b) whether any material and specific risks disclosed elsewhere in the draft prospectus are included in the risk factors section;
- (c) whether the information in the summary is in line with information elsewhere in the draft prospectus;
- (d) whether any figures on the use of proceeds correspond to the amount of proceeds being raised and whether the disclosed use of proceeds is in line with the disclosed strategy of the issuer;
- (e) whether the description of the issuer in the operating and financial review, the historical financial information, the description of the issuer's activity and the description of the risk factors are consistent;
- (f) whether the working capital statement is in line with the risk factors, the auditor's report, the use of proceeds and the disclosed strategy of the issuer and how that strategy will be funded.

#### **Article 39**

### **Scrutiny of the information contained in the prospectus of specialist issuers**

Competent authorities may require additional information to be included in the prospectus based on the activities of the specialist issuers falling under one of the categories set out in Annex 29.

#### **Article 40**

### **Additional criteria for the scrutiny of the completeness, consistency and comprehensibility of the information contained in the prospectus**

Where necessary for investor protection, the competent authority may apply criteria in addition to those laid down in Articles 36, 37 and 38 for the purposes of scrutinising the completeness, comprehensibility and consistency of the information in the draft prospectus.

#### **Article 41**

### **Proportionate approach in the scrutiny of draft prospectuses and review of the universal registration document**

1. Where a first draft of a prospectus that is submitted to a competent authority is substantially similar to a prospectus that the same competent authority has already approved, and where that draft prospectus highlights all changes made to that approved prospectus, the competent authority shall only be required to apply the criteria laid down in Articles 36, 37 and 38 to scrutinise those changes and any other information affected by them.
2. For the purposes of scrutinizing a universal registration document filed without prior approval that has already been reviewed, or an amendment to such a document, competent authorities shall only be required to apply the criteria laid down in Article 36, 37 and 38 to those parts of the universal registration document or the amendment that have not been reviewed.
3. Where a first draft of a prospectus that incorporates information by reference to a document that has been approved in accordance with [the *Prospectus Regulation*] or in accordance with the national provisions transposing [the *PD*], competent authorities shall only be required to apply the criteria laid down in Article 38 of this Regulation to scrutinise that information.
4. When applying paragraphs 1, 2 or 3, competent authorities shall request the issuer, offeror or person asking for admission to trading on a regulated market to confirm that all information in the final draft of the prospectus or universal registration document is up-to-date and contains all the information referred to in the Annexes to this Regulation applicable to that prospectus or universal registration document.
5. Where subsequent drafts of the prospectus are submitted to the competent authority, that competent authority, when scrutinising such subsequent drafts, shall only be required to apply the criteria laid down in Articles 36, 37 and 38 to changes made to the preceding draft and to any other information affected by those changes.

## Article 42

### **Submission of an application for approval of a draft prospectus or filing of a universal registration document or of amendments thereto**

1. All drafts of a prospectus shall be submitted to the competent authority in searchable electronic format via electronic means.  
  
When submitting the first draft of the prospectus, the issuer, offeror or person asking for admission to trading on a regulated market shall provide the competent authority with a contact point for the competent authority to submit all notifications in writing and by electronic means.

2. The following information shall also be submitted to the competent authority in searchable electronic format via electronic means:
- (a) the list of cross references, where requested by the competent authority in accordance with Article 24(5) of this Regulation, or when submitted on own initiative;
  - (b) where no list of cross reference is requested, a document that identifies any items set out in the Annexes to this Regulation that, due to the nature or type of issuer, securities, offer or admission to trading, have not been included in the draft prospectus;
  - (c) any information that is incorporated into the prospectus by reference as referred to in Article 19 of [the *Prospectus Regulation*], unless such information has already been approved by or filed with the same competent authority in searchable electronic format;
  - (d) any reasoned request to the competent authority to authorise the omission of information from the prospectus as referred to in Article 18 of [the *Prospectus Regulation*];
  - (e) any request to the competent authority to make a notification as referred to in Article 25(1) of [the *Prospectus Regulation*];
  - (f) any request to the competent authority to make a notification as referred to in Article 26(2) of [the *Prospectus Regulation*];
  - (g) an appendix as referred to in Article 26(4) of [the *Prospectus Regulation*], unless no summary is required pursuant to the second subparagraph of Article 7(1) of that Regulation;
  - (h) a confirmation that, to the best of the knowledge of the issuer, all regulated information which was required to be disclosed under the national provisions transposing Directive 2004/109/EC of the European Parliament and of the Council, where applicable, and under [the *Market Abuse Regulation*], has been filed and published in accordance with those acts over the last 18 months or over the period since the obligation to disclose that regulated information commenced, whichever is the shorter, where the issuer is submitting for approval a draft universal registration document or filing a universal registration document without prior approval and seeks to obtain the status of frequent issuer;
  - (i) where a universal registration document is filed without prior approval, an explanation as to how a request for amendment or supplementary information as referred to in the second subparagraph of Article 9(9) of [the *Prospectus Regulation*] has been taken into account in the universal registration

document;

- (j) any other information requested by the competent authority for the purposes of the scrutiny and approval of the prospectus or the scrutiny, review and approval of the universal registration document.
3. Where a universal registration document that is filed without prior approval is annotated in the margin in accordance with Article 24(6), it shall be accompanied by an identical version without annotations in the margin.
  4. Where a universal registration document is filed without prior approval or where a universal registration document is amended, the information referred to in points (a), (b), (c), (d), (h) and (i) of paragraph 2 shall be submitted at the time when the universal registration document is filed with the competent authority whilst the information referred to in point (j) of paragraph 2 shall be submitted during the review process. In all other cases, the information referred to in paragraph 2 shall be submitted together with the first draft of the prospectus submitted to the competent authority or during the scrutiny process.
  5. Where a frequent issuer informs the competent authority that it intends to submit an application for approval of a draft prospectus in accordance with the second sentence of the first subparagraph of Article 20(6) of [*the Prospectus Regulation*], that frequent issuer shall do so in writing and by electronic means.

The information referred to in the first subparagraph shall indicate the Annexes to this Regulation relevant for that draft prospectus.

#### Article 43

#### **Changes to a draft prospectus during the approval procedure**

1. Each version of the draft prospectus submitted after the first draft prospectus shall highlight all changes made to the preceding draft and shall be accompanied by an unmarked draft. Competent authorities shall accept marked extracts of the preceding draft prospectus where only limited changes have been made.
2. Where competent authorities, in accordance with Article 45(2) of this Regulation, have notified the issuer, offeror or person asking for admission to trading on a regulated market that the draft prospectus does not meet the standards of completeness, comprehensibility and consistency as referred to in Article 20(4) of [*the Prospectus Regulation*], the subsequently submitted draft of the prospectus shall be accompanied by an explanation as to how the outstanding issues notified by competent authorities have been addressed.



3. Where changes made to a draft prospectus are self-explanatory or clearly address the outstanding issues notified by the competent authority, an indication of where the changes have been made to address the outstanding issues shall be considered sufficient explanation for the purposes of paragraph 2.

#### Article 44

##### **Submission for approval of the final draft of the prospectus**

1. The final draft of the prospectus shall be submitted for approval together with all the information referred to in Article 42(2) that has changed compared to the previous submission, with the exception of the information referred to in points (a) and (h) of that Article. The final draft of the prospectus shall not be annotated in the margin.
2. Where no changes have been made to the information referred to in Article 42(2), the issuer, offeror or person asking for admission to trading on a regulated market shall confirm so in writing and by electronic means.

#### Article 45

##### **Acknowledgment of the receipt of an application for approval of a draft prospectus, or of the filing of a universal registration document or of an amendment thereto, and processing of an application for approval of a draft prospectus**

1. Competent authorities shall acknowledge receipt of the initial application for approval of a draft prospectus or of the filing of a universal registration document as referred to in the second subparagraph of Article 9(2) of [the *Prospectus Regulation*], or of an amendment to that universal registration document in writing and by electronic means as soon as possible and no later than by close of business on the second working day following the receipt of the application or filing.

Upon receipt of the initial application for approval of a draft prospectus and of the filing of a universal registration document, or of an amendment thereto, the competent authority shall inform the issuer, offeror or person asking for admission to trading on a regulated market of the following:

- (a) the reference number of the application or of the filing;
  - (b) the contact point within the competent authority to which queries regarding the application or the filing may be addressed.
2. Where the draft prospectus does not meet the standards of completeness, comprehensibility and consistency necessary for its approval or where changes or supplementary information are

needed, competent authorities shall inform the issuer, offeror or person asking for admission to trading on a regulated market thereof in writing and by electronic means.

Where the universal registration document referred to in the second subparagraph of Article 9(2) of [the *Prospectus Regulation*], or an amendment to that universal registration document, does not meet the standards of completeness, comprehensibility and consistency or where amendments or supplementary information are needed, competent authorities shall inform the issuer thereof in writing and by electronic means. Where the shortcoming must be addressed without undue delay, as required by the third subparagraph of Article 9(9) of [the *Prospectus Regulation*], the competent authority shall inform the issuer thereof.

3. The competent authority shall notify the issuer, offeror or person asking for admission to trading on a regulated market about its decision regarding the approval of the draft prospectus in writing and by electronic means as soon as possible and by no later than by close of business of the day on which that decision is taken.]

#### Time limits for approval of prospectus

- 3.1.2 EU Article 20(2) to (6) of the *Prospectus Regulation* sets out the time limits for the approval of a *prospectus*:

#### Article 20

#### Scrutiny and approval of the prospectus

...

2. The competent authority shall notify the issuer, the offeror or the person asking for admission to trading on a regulated market of its decision regarding the approval of the prospectus within 10 working days of the submission of the draft prospectus.

Where the competent authority fails to take a decision on the prospectus within the time limits laid down in the first subparagraph of this paragraph and paragraphs 3 and 6, such failure shall not be deemed to constitute approval of the application.

The competent authority shall notify ESMA of the approval of the prospectus and any supplement thereto as soon as possible and in any event by no later than the end of the first working day after that approval is notified to the issuer, the offeror or the person asking for admission to trading on a regulated market.

3. The time limit set out in the first subparagraph of paragraph 2 shall be extended to 20 working days where the offer to the public involves securities issued by an issuer that does not have any securities admitted to trading on a regulated market and that has not

previously offered securities to the public.

The time limit of 20 working days shall only be applicable for the initial submission of the draft prospectus. Where subsequent submissions are necessary in accordance with paragraph 4, the time limit set out in the first subparagraph of paragraph 2 shall apply.

4. Where the competent authority finds that the draft prospectus does not meet the standards of completeness, comprehensibility and consistency necessary for its approval and/or that changes or supplementary information are needed:
  - (a) it shall inform the issuer, the offeror or the person asking for admission to trading on a regulated market of that fact promptly and at the latest within the time limits set out in the first subparagraph of paragraph 2 or, as applicable, paragraph 3, as calculated from the submission of the draft prospectus and/or the supplementary information; and
  - (b) it shall clearly specify the changes or supplementary information that are needed.

In such cases, the time limit set out in the first subparagraph of paragraph 2 shall then apply only from the date on which a revised draft prospectus or the supplementary information requested are submitted to the competent authority.

5. Where the issuer, the offeror or the person asking for admission to trading on a regulated market is unable or unwilling to make the necessary changes or to provide the supplementary information requested in accordance with paragraph 4, the competent authority shall be entitled to refuse the approval of the prospectus and terminate the review process. In such case, the competent authority shall notify the issuer, the offeror or the person asking for admission to trading on a regulated market of its decision and indicate the reasons for such refusal.
6. By way of derogation from paragraphs 2 and 4, the time limits set out in the first subparagraph of paragraph 2 and paragraph 4 shall be reduced to five working days for a prospectus consisting of separate documents drawn up by frequent issuers referred to in Article 9(11), including frequent issuers using the notification procedure provided for in Article 26. The frequent issuer shall inform the competent authority at least five working days before the date envisaged for the submission of an application for approval.

A frequent issuer shall submit an application to the competent authority containing the necessary amendments to the universal registration document, where applicable, the securities note and the summary submitted for approval.

Applying for approval

- 3.1.3 R If the order of disclosure items in the *prospectus* does not coincide with the order set out in the annexes to the *PR Regulation*, an *applicant* must provide the *FCA* with a cross-reference list identifying the pages where each disclosure item can be found in the *prospectus*.

[**Note:** [Articles 24(5) and 25(6)] of the *PR Regulation*]

- 3.1.4 R An *applicant* must take all reasonable care to ensure that any *prospectus* submitted for approval, for which it is responsible, contains:
- (1) the necessary information as required under article 6 of the *Prospectus Regulation*; and
  - (2) the information items required in the Annexes of the *PR Regulation*, as appropriate to its application.

- 3.1.5 R An *applicant* must take all reasonable care to ensure that any *prospectus* submitted for approval for which it is responsible is, to the best of its knowledge, in accordance with the facts and contains no omission likely to affect its import.

#### Timeframe for submission

- 3.1.6 R (1) The *applicant* must submit to the *FCA* by the date specified in paragraph (2):

- (a) (i) a completed Form A; and
- (ii) a completed Publication Form;

[**Note:** [Article 42(2)(j)] of the *PR Regulation*. These forms are available on the *FCA* website.]

- (b) the relevant fee; and

[**Note:** *FEES* 3 sets out the relevant fee payable to the *FCA*.]

- (c) the first draft of the *prospectus* (accompanied, where relevant, by the additional information set out in [article 42(2)] of the *PR Regulation*.

- (2) The date referred to in paragraph (1) is:

- (a) at least 10 *working days* before the intended approval date of the *prospectus*; or
- (b) at least 20 *working days* before the intended approval date of the *prospectus* if the *applicant* does not have *transferable securities admitted to trading* and has not previously made an *offer*; or
- (c) as soon as practicable in the case of a *supplementary*

*prospectus.*

- (3) The *applicant* must submit the final version of the draft *prospectus* and the additional information set out in [article 44] of the *PR Regulation* to the *FCA* before midday on the day on which approval is required to be granted.

[**Note:** [Article 44] of the *PR Regulation* is reproduced for the convenience of readers in *PRR 3.1.1EU*.]

Copy of resolution to be kept

- 3.1.7 R An *applicant* must keep a copy of the board resolution allotting or issuing the *transferable securities* for six years after the application for approval of the *prospectus* for those *transferable securities*.

Request for certificate of approval

- 3.1.8 G If an *applicant* wishes the *FCA* to provide a certificate of approval to another competent authority at the time the *prospectus* is approved, it should note the requirements set out in article 25 of the *Prospectus Regulation*. As provided by article 25 of the *Prospectus Regulation*, a request may still be submitted to the *FCA* after the *prospectus* has been approved (*PRR 5.2.3 G* provides *guidance* for making such a request).

Decision-making procedures

- 3.1.9 R The *FCA* will follow the *executive procedures for statutory notice decisions* and *statutory notice associated decisions* if it:
- (1) proposes to refuse to approve a *prospectus*; or
  - (2) decides to refuse to approve a *prospectus* after having given the *applicant* a written notice.

[**Note:** *DEPP 4* sets out the *executive procedures for statutory notice decisions* and *statutory notice associated decisions*.]

Prospectus not to be published until approved

- 3.1.10 EU Article 20(1) of the *Prospectus Regulation* provides:

Article 20

### **Scrutiny and approval of the prospectus**

1. A prospectus shall not be published unless the relevant competent authority has approved it, or all of its constituent parts in accordance with Article 10.

Prospectus comprising separate documents

- 3.1.11 R If the *prospectus* is not a single document but comprises separate documents:
- (1) an application for approval may relate to one or more of those separate documents; and
  - (2) a reference in this section to a *prospectus* is, unless the context otherwise requires, to be taken to be a reference to the document or documents to which the application relates.

Transfer to another competent authority

- 3.1.12 EU Article 20(8) of the *Prospectus Regulation* provides for the transfer of approval of the *prospectus* to another *EEA State*:

Article 20

### Scrutiny and approval of the prospectus

...

8. On request of the issuer, the offeror or the person asking for admission to trading on a regulated market, the competent authority of the home Member State may transfer the approval of a prospectus to the competent authority of another Member State, subject to prior notification to ESMA and the agreement of that competent authority. The competent authority of the home Member State shall transfer the documentation filed, together with its decision to grant the transfer, in electronic format, to the competent authority of the other Member State on the date of its decision. Such a transfer shall be notified to the issuer, the offeror or the person asking for admission to trading on a regulated market within three working days from the date of the decision taken by the competent authority of the home Member State. The time limits set out in the first subparagraph of paragraph 2 and paragraph 3 shall apply from the date the decision was taken by the competent authority of the home Member State. Article 28(4) of Regulation (EU) No 1095/2010 shall not apply to the transfer of the approval of the prospectus in accordance with this paragraph. Upon completion of the transfer of the approval, the competent authority to whom the approval of the prospectus has been transferred shall be deemed to be the competent authority of the home Member State for that prospectus for the purposes of this Regulation.

- 3.1.13 R
- (1) A person seeking to have the function of approving a *prospectus* transferred to the competent authority of another *EEA State* must make a written request to the *FCA* at least 10 *working days* before the date the transfer is sought.
  - (2) The request must:

- (a) set out the reasons for the proposed transfer;
- (b) state the name of the competent authority to whom the transfer is sought; and
- (c) include a copy of the draft *prospectus*.

#### Service of Notice Regulations

- 3.1.14 G Regulation 7 of the Financial Services and Markets Act 2000 (Service of Notice Regulations) 2001 (SI 2001/1420) contains provisions relating to the possible methods of serving documents on the *FCA*. Regulation 7 does not apply to the submission of a draft *prospectus* or *listing particulars* to the *FCA* for approval because of the provisions set out in *PRR* 3.1.1EU.

### 3.2 Publication of prospectus

#### Publication

- 3.2.1 EU Article 21(1) of the *Prospectus Regulation* provides for the publication of the *prospectus*:

#### Article 21

#### Publication of the prospectus

1. Once approved, the prospectus shall be made available to the public by the issuer, the offeror or the person asking for admission to trading on a regulated market at a reasonable time in advance of, and at the latest at the beginning of, the offer to the public or the admission to trading of the securities involved.

In the case of an initial offer to the public of a class of shares that is admitted to trading on a regulated market for the first time, the prospectus shall be made available to the public at least six working days before the end of the offer.

#### Method of publishing

- 3.2.2 EU Article 21(2) to (4) of the *Prospectus Regulation* provides for the methods by which the *prospectus* is to be published:

#### Article 21

#### Publication of the prospectus

...

2. The prospectus, whether a single document or consisting of separate documents, shall be deemed available to the public when published in electronic form on any of the following websites:

- (a) the website of the issuer, the offeror or the person asking for admission to trading on a regulated market;
  - (b) the website of the financial intermediaries placing or selling the securities, including paying agents;
  - (c) the website of the regulated market where the admission to trading is sought, or where no admission to trading on a regulated market is sought, the website of the operator of the MTF.
3. The prospectus shall be published on a dedicated section of the website which is easily accessible when entering the website. It shall be downloadable, printable and in searchable electronic format that cannot be modified.
- The documents containing information incorporated by reference in the prospectus, the supplements and/or final terms related to the prospectus and a separate copy of the summary shall be accessible under the same section alongside the prospectus, including by way of hyperlinks where necessary.
- The separate copy of the summary shall clearly indicate the prospectus to which it relates.
4. Access to the prospectus shall not be subject to the completion of a registration process, the acceptance of a disclaimer limiting legal liability or the payment of a fee. Warnings specifying the jurisdiction(s) in which an offer or an admission to trading is being made shall not be considered to be disclaimers limiting legal liability.

#### Other publication requirements

- 3.2.3 EU Article 21(7) to (11) of the *Prospectus Regulation* provides for further requirements for publication:

#### Article 21

#### **Publication of the prospectus**

...

7. All prospectuses approved shall remain publicly available in electronic form for at least 10 years after their publication on the websites referred to in paragraphs 2 and 6.

Where hyperlinks are used for information incorporated by reference in the prospectus, and the supplements and/or final terms related to the prospectus, such hyperlinks shall be functional for the period referred to in the first subparagraph.



8. An approved prospectus shall contain a prominent warning stating when the validity of the prospectus will expire. The warning shall also state that the obligation to supplement a prospectus in the event of significant new factors, material mistakes or material inaccuracies does not apply when a prospectus is no longer valid.
9. In the case of a prospectus comprising several documents and/or incorporating information by reference, the documents and information that constitute the prospectus may be published and distributed separately provided that those documents are made available to the public in accordance with paragraph 2. Where a prospectus consists of separate documents in accordance with Article 10, each of those constituent documents, except for documents incorporated by reference, shall indicate that it is only one part of the prospectus and where the other constituent documents may be obtained.
10. The text and the format of the prospectus, and any supplement to the prospectus made available to the public, shall at all times be identical to the original version approved by the competent authority of the home Member State.
11. A copy of the prospectus on a durable medium shall be delivered to any potential investor, upon request and free of charge, by the issuer, the offeror, the person asking for admission to trading on a regulated market or the financial intermediaries placing or selling the securities. In the event that a potential investor makes a specific demand for a paper copy, the issuer, the offeror, the person asking for admission to trading on a regulated market or a financial intermediary placing or selling the securities shall deliver a printed version of the prospectus. Delivery shall be limited to jurisdictions in which the offer of securities to the public is made or where the admission to trading on a regulated market is taking place under this Regulation.

Publication on website

3.2.4 EU [Article 10(2)] of the *Prospectus RTS Regulation* provides that:

[Article 10

#### **Publication of the prospectus**

...

2. Where a prospectus is published in accordance with Article 21(2) of [the *Prospectus Regulation*], measures shall be taken on websites used for the publication of the prospectus to avoid targeting residents of Member States or third countries other than those where the securities are offered to the public.]

## Publication by the competent authority

- 3.2.5 EU Article 21(5) (first sub-paragraph) of the *Prospectus Regulation* sets out the publication requirements applicable to the *FCA* as the competent authority:

## Article 21

**Publication of the prospectus**

...

5. The competent authority of the home Member State shall publish on its website all the prospectuses approved or at least the list of prospectuses approved, including a hyperlink to the dedicated website sections referred to in paragraph 3 of this Article as well as an identification of the host Member State or States where prospectuses are notified in accordance with Article 25. The published list, including the hyperlinks, shall be kept up-to-date and each item shall remain on the website at least for the period referred to in paragraph 7 of this Article.

- 3.2.6 G The *FCA* will upload documents to the system identified by the *FCA* on its website as the national storage mechanism for regulatory announcements and certain documents published by *issuers*. The *FCA* will upload *prospectuses* and related documents it approves after 6 p.m. on the *working day* following the *day* on which it approved the document.

## Issuers required to submit data

- 3.2.7 R (1) An *issuer* must provide to the *FCA* any information that the *FCA* requires in order to comply with its obligations to provide information to *ESMA* under article 21(5) of the *Prospectus Regulation* or any regulatory technical standards adopted under article 21(12) of that regulation.
- [**Note:** [Annex VII (Machine Readable Data)] of the *Prospectus RTS Regulation* [Link to be inserted].]
- (2) The *issuer* must provide the information referred to in paragraph (1) to the *FCA* as soon as possible and
- (a) for information relating to a *prospectus*, before the *prospectus* is approved by the *FCA*;
  - (b) for information relating to all other documents, no later than when the relevant document is submitted to the *FCA*.
- 3.2.8 R The *issuer* must submit the information referred to *PRR 3.2.7R* using electronic means and the format made available by the *FCA*.
- [**Note:** Information on the required data and format of submission can be found on the Markets section of the *FCA* website.]

### 3.3 Advertisements

#### Advertisements

- 3.3.1 EU Article 22(1) to (5) of the *Prospectus Regulation* provides for requirements applicable to *advertisements*:

#### Article 22

#### Advertisements

1. Any advertisement relating either to an offer of securities to the public or to an admission to trading on a regulated market shall comply with the principles contained in paragraphs 2 to 5. Paragraphs 2 to 4 and point (b) of paragraph 5 shall apply only to cases where the issuer, the offeror or the person asking for admission to trading on a regulated market is subject to the obligation to draw up a prospectus.
2. Advertisements shall state that a prospectus has been or will be published and indicate where investors are or will be able to obtain it.
3. Advertisements shall be clearly recognisable as such. The information contained in an advertisement shall not be inaccurate or misleading and shall be consistent with the information contained in the prospectus, where already published, or with the information required to be in the prospectus, where the prospectus is yet to be published.
4. All information disclosed in an oral or written form concerning the offer of securities to the public or the admission to trading on a regulated market, even where not for advertising purposes, shall be consistent with the information contained in the prospectus.
5. In the event that material information is disclosed by an issuer or an offeror and addressed to one or more selected investors in oral or written form, such information shall, as applicable, either:
  - (a) be disclosed to all other investors to whom the offer is addressed, in the event that a prospectus is not required to be published in accordance with Article 1(4) or (5); or
  - (b) be included in the prospectus or in a supplement to the prospectus in accordance with Article 23(1), in the event that a prospectus is required to be published.

- 3.3.2 EU [Chapter IV] of the *Prospectus RTS Regulation* provides that:

#### [Article 13

## Identification of the prospectus

Where the issuer, the offeror or the person asking for admission to trading on a regulated market is subject to the obligation to draw up a prospectus, an advertisement shall clearly identify that prospectus by:

- (a) clearly identifying the website where the prospectus is published, or will be published, where the advertisement is disseminated in written form and by means other than electronic means;
- (b) including a hyperlink to the prospectus and to the relevant final terms of a base prospectus where the advertisement is disseminated in written form by electronic means, or by including a hyperlink to the page of the website where the prospectus will be published if the prospectus has not yet been published;
- (c) including accurate information on where the prospectus may be obtained, and accurate information on the offer of securities or the admission to trading on a regulated market to which it relates, where the advertisement is disseminated in a form or by means not falling within the scope of points (a) or (b).

## Article 14

### Required content

1. Advertisements disseminated to potential retail investors shall include the following elements:
  - (a) the word ‘advertisement’, in a prominent manner. Where an advertisement is disseminated in an oral form, the purpose of the communication shall be clearly identified at the beginning of the message;
  - (b) a statement that the approval of the prospectus should not be understood as an endorsement of the securities offered or admitted to trading on a regulated market where the advertisement contains a reference to a prospectus approved by a competent authority;
  - (c) a recommendation that potential investors read the prospectus before making an investment decision in order to fully understand the potential risks and rewards associated with the decision to invest in the securities where the advertisement contains a reference to a prospectus approved by a competent authority;
  - (d) the comprehension alert required pursuant to point (b) of Article 8(3) of Regulation (EU) No 1286/2014 of the European Parliament and of the Council<sup>12</sup> where:

- (i) the advertisement relates to complex securities other than the financial instruments referred to in points (i), (ii) and (vi) of Article 25(4)(a) of Directive 2014/65/EU of the European Parliament and of the Council and;
  - (ii) the comprehension alert is, or will be, included in the summary of the prospectus.
- 2. Advertisements in written form, which are disseminated to potential retail investors, shall be sufficiently different in format and length from the prospectus that no confusion with the prospectus is possible.

## Article 15

### Dissemination of advertisements

- 1. Advertisements disseminated to potential investors shall be amended where:
  - (a) a supplement to the prospectus is subsequently published in accordance with Article 23 of [the *Prospectus Regulation*];
  - (b) the significant new factor, material mistake or material inaccuracy mentioned in the supplement renders the previously disseminated advertisement materially inaccurate or misleading.

The first subparagraph shall not apply after the final closing of the offer period to the public or after the time when trading on a regulated market begins, whichever occurs later.
- 2. Advertisements amended as referred to in paragraph 1 shall be disseminated to potential investors without undue delay following the publication of the supplement to the prospectus and shall contain all of the following:
  - (a) a clear reference to the inaccurate or misleading version of the advertisement;
  - (b) an explanation that the advertisement has been amended as it contained materially inaccurate or misleading information;
  - (c) a clear description of the differences between the two versions of the advertisement.
- 3. With the exception of orally disseminated advertisements, advertisements amended pursuant to paragraph 1 shall be disseminated through at least the same means as the previous advertisement.

## Article 16

**Information concerning offers of securities**

1. Information disclosed in oral or written form concerning an offer of securities to the public or an admission to trading on a regulated market, whether as an advertisement or for other purposes, shall not:
  - (a) contradict the information in the prospectus;
  - (b) refer to information which contradicts the information in the prospectus;
  - (c) present the information in the prospectus in a materially unbalanced way, including by way of presentation of negative aspects of such information with less prominence than the positive aspects, omission or selective presentation of certain information;
  - (d) contain alternative performance measures unless they are contained in the prospectus.
2. For the purposes of the paragraph 1, information in the prospectus shall consist of either information included in the prospectus, where already published, or information to be included in the prospectus, where the prospectus is to be published at a later date.
3. For the purposes of point (d) of the paragraph 1, alternative performance measures shall consist of financial measures of historical or future financial performance, financial position or cash flows, other than financial measures defined in the applicable financial reporting framework.

## Article 17

**Procedure for the cooperation between competent authorities**

1. Where the competent authority of a Member State in which an advertisement is disseminated believes that the content of that advertisement is inconsistent with the information in the prospectus, it may request the assistance of the competent authority of the home Member State. Where requested, the competent authority in which the advertisement is disseminated shall communicate the following to the competent authority of the home Member State:
  - (a) its reasons for believing that the content of the advertisement is inconsistent with the information in the prospectus;
  - (b) the relevant advertisement and, where necessary, a translation of the advertisement in the language of the prospectus or in a language customary in the sphere of international finance.

2. The competent authority of the home Member State shall transmit to the competent authority in which the advertisement is disseminated as soon as possible the results of its assessment of the consistency of the advertisement with the information in the prospectus.]

### 3.4 Supplementary prospectus

#### Supplementary prospectus

- 3.4.1 EU Article 23(1) to (6) of the *Prospectus Regulation* provides for requirements applicable to *supplementary prospectuses*:

#### Article 23

#### Supplements to the prospectus

1. Every significant new factor, material mistake or material inaccuracy relating to the information included in a prospectus which may affect the assessment of the securities and which arises or is noted between the time when the prospectus is approved and the closing of the offer period or the time when trading on a regulated market begins, whichever occurs later, shall be mentioned in a supplement to the prospectus without undue delay.

Such a supplement shall be approved in the same way as a prospectus in a maximum of five working days and published in accordance with at least the same arrangements as were applied when the original prospectus was published in accordance with Article 21. The summary, and any translations thereof, shall also be supplemented, where necessary, to take into account the new information included in the supplement.

2. Where the prospectus relates to an offer of securities to the public, investors who have already agreed to purchase or subscribe for the securities before the supplement is published shall have the right, exercisable within two working days after the publication of the supplement, to withdraw their acceptances, provided that the significant new factor, material mistake or material inaccuracy referred to in paragraph 1 arose or was noted before the closing of the offer period or the delivery of the securities, whichever occurs first. That period may be extended by the issuer or the offeror. The final date of the right of withdrawal shall be stated in the supplement.

The supplement shall contain a prominent statement concerning the right of withdrawal, which clearly states:

- (a) that a right of withdrawal is only granted to those investors who had already agreed to purchase or subscribe for the securities before the supplement was published and where the securities had not yet been delivered to the investors at the time when the significant new factor, material mistake or

material inaccuracy arose or was noted;

- (b) the period in which investors can exercise their right of withdrawal; and
- (c) whom investors may contact should they wish to exercise the right of withdrawal.

3. Where the securities are purchased or subscribed through a financial intermediary, that financial intermediary shall inform investors of the possibility of a supplement being published, where and when it would be published and that the financial intermediary would assist them in exercising their right to withdraw acceptances in such case.

The financial intermediary shall contact investors on the day when the supplement is published.

Where the securities are purchased or subscribed directly from the issuer, that issuer shall inform investors of the possibility of a supplement being published and where it would be published and that in such case, they could have a right to withdraw the acceptance.

4. Where the issuer prepares a supplement concerning information in the base prospectus that relates to only one or several individual issues, the right of investors to withdraw their acceptances pursuant to paragraph 2 shall only apply to the relevant issue(s) and not to any other issue of securities under the base prospectus.
5. In the event that the significant new factor, material mistake or material inaccuracy referred to in paragraph 1 concerns only the information contained in a registration document or a universal registration document and that registration document or universal registration document is simultaneously used as a constituent part of several prospectuses, only one supplement shall be drawn up and approved. In that case, the supplement shall mention all the prospectuses to which it relates.
6. When scrutinising a supplement before approval, the competent authority may request that the supplement contains a consolidated version of the supplemented prospectus, registration document or universal registration document in an annex, where such consolidated version is necessary to ensure comprehensibility of the information given in the prospectus. Such a request shall be deemed to be a request for supplementary information under Article 20(4). An issuer may in any event voluntarily include a consolidated version of the supplemented prospectus, registration document or universal registration document in an annex to the supplement.

3.4.2 EU [Chapter V] of the *Prospectus RTS Regulation* provides for further requirements applicable to *supplementary prospectuses*:



## [Article 18]

**Publication of a supplement to the prospectus**

1. A supplement to the prospectus shall be published where:
  - (a) new annual audited financial statements are published by any of the following:
    - (i) an issuer where a prospectus relates to equity securities;
    - (ii) an issuer of the underlying shares or other transferable securities equivalent to shares in case of securities referred to in Articles 19(2), 19(3) or 20(2) of [OP please insert a reference to the Commission Delegated Regulation supplementing Regulation (EU) 2017/1129 of the European Parliament and of the Council as regards the format, content, scrutiny and approval of the prospectus to be published when securities are offered to the public or admitted to trading on a regulated market, and repealing Commission Regulation (EC) No 809/2004];
    - (iii) an issuer of the underlying shares of depository receipts referred to in Articles 6 and 14 of [OP please insert a reference to the Commission Delegated Regulation supplementing Regulation (EU) 2017/1129 of the European Parliament and of the Council as regards the format, content, scrutiny and approval of the prospectus to be published when securities are offered to the public or admitted to trading on a regulated market, and repealing Commission Regulation (EC) No 809/2004];
  - (b) an issuer has published a profit forecast or estimate following the approval of the prospectus, where a profit forecast or estimate is required to be included in the prospectus pursuant to [OP please insert a reference to the Commission Delegated Regulation supplementing Regulation (EU) 2017/1129 of the European Parliament and of the Council as regards the format, content, scrutiny and approval of the prospectus to be published when securities are offered to the public or admitted to trading on a regulated market, and repealing Commission Regulation (EC) No 809/2004];
  - (c) an amendment to, or a withdrawal of, a profit forecast or a profit estimate is included in the prospectus;
  - (d) a change in control occurs in respect of any of the following:

- (i) an issuer where a prospectus relates to equity securities;
  - (ii) an issuer of the underlying shares or other transferable securities equivalent to shares where a prospectus relates to securities referred to in Articles 19(2), 19(3) or 20(2) of [OP please insert a reference to the Commission Delegated Regulation supplementing Regulation (EU) 2017/1129 of the European Parliament and of the Council as regards the format, content, scrutiny and approval of the prospectus to be published when securities are offered to the public or admitted to trading on a regulated market, and repealing Commission Regulation (EC) No 809/2004];
  - (iii) an issuer of the underlying shares of depository receipts referred to in Articles 6 and 14 of [OP please insert a reference to the Commission Delegated Regulation supplementing Regulation (EU) 2017/1129 of the European Parliament and of the Council as regards the format, content, scrutiny and approval of the prospectus to be published when securities are offered to the public or admitted to trading on a regulated market, and repealing Commission Regulation (EC) No 809/2004];
- (e) third parties make a new takeover bid as defined in Article 2(1)(a) of Directive 2004/25/EC of the European Parliament and of the Council or the result of any takeover bid becomes available in respect of any of the following type of securities:
- (i) the equity of the issuer where a prospectus relates to equity securities;
  - (ii) the equity of the issuer of the underlying shares or other transferable securities equivalent to shares where a prospectus relates to securities referred to in Articles 19(2), 19(3) or 20(2) of [OP please insert a reference to the Commission Delegated Regulation supplementing Regulation (EU) 2017/1129 of the European Parliament and of the Council as regards the format, content, scrutiny and approval of the prospectus to be published when securities are offered to the public or admitted to trading on a regulated market, and repealing Commission Regulation (EC) No 809/2004];
  - (iii) the equity of the issuer of the underlying shares of depository receipts where a prospectus is drawn up in accordance with Articles 6 and 14 of [OP please insert

a reference to the Commission Delegated Regulation supplementing Regulation (EU) 2017/1129 of the European Parliament and of the Council as regards the format, content, scrutiny and approval of the prospectus to be published when securities are offered to the public or admitted to trading on a regulated market, and repealing Commission Regulation (EC) No 809/2004];

- (f) the working capital statement included in a prospectus becomes sufficient or insufficient for the issuer's present requirements, in relation to:
  - (i) equity securities;
  - (ii) securities which are convertible or exchangeable as referred to in Articles 19(2) and 19(3) of [OP please insert a reference to the Commission Delegated Regulation supplementing Regulation (EU) 2017/1129 of the European Parliament and of the Council as regards the format, content, scrutiny and approval of the prospectus to be published when securities are offered to the public or admitted to trading on a regulated market, and repealing Commission Regulation (EC) No 809/2004];
  - (iii) depository receipts issued over shares as referred to in Articles 6 and 14 of [OP please insert a reference to the Commission Delegated Regulation supplementing Regulation (EU) 2017/1129 of the European Parliament and of the Council as regards the format, content, scrutiny and approval of the prospectus to be published when securities are offered to the public or admitted to trading on a regulated market, and repealing Commission Regulation (EC) No 809/2004].
- (g) an issuer is seeking admission to trading on at least one additional regulated market in at least one additional Member State or is intending to make an offer of securities to the public in at least one additional Member State that is not mentioned in the prospectus;
- (h) in the case of a prospectus relating to equity securities or to other securities referred to in Articles 19(2), 19(3) or 20(2) of [OP please insert a reference to the Commission Delegated Regulation supplementing Regulation (EU) 2017/1129 of the European Parliament and of the Council as regards the format, content, scrutiny and approval of the prospectus to be published when securities are offered to the public or admitted to trading on a regulated market, and repealing Commission Regulation (EC) No 809/2004], a new significant financial

commitment is likely to give rise to a significant gross change within the meaning of Article 1(e) of that Delegated Regulation;

- (i) the aggregate nominal amount of the offering programme is increased.]

## **4 Use of languages and third country issuers**

### **4.1 Use of languages**

#### Language

- 4.1.1 EU Article 27 of the *Prospectus Regulation* provides:

#### Article 27

#### **Use of language**

1. Where an offer of securities to the public is made or admission to trading on a regulated market is sought only in the home Member State, the prospectus shall be drawn up in a language accepted by the competent authority of the home Member State.
2. Where an offer of securities to the public is made or admission to trading on a regulated market is sought in one or more Member States excluding the home Member State, the prospectus shall be drawn up either in a language accepted by the competent authorities of those Member States or in a language customary in the sphere of international finance, at the choice of the issuer, the offeror or the person asking for admission to trading on a regulated market.

The competent authority of each host Member State shall require that the summary referred to in Article 7 be available in its official language, or at least one of its official languages, or in another language accepted by the competent authority of that Member State, but it shall not require the translation of any other part of the prospectus.

For the purpose of the scrutiny and approval by the competent authority of the home Member State, the prospectus shall be drawn up either in a language accepted by that authority or in a language customary in the sphere of international finance, at the choice of the issuer, the offeror or the person asking for admission to trading on a regulated market.

3. Where an offer of securities to the public is made or an admission to trading on a regulated market is sought in more than one Member State including the home Member State, the prospectus shall be drawn up in a language accepted by the competent authority of the home Member State, and shall also be made available either in a language accepted by the competent authorities of each host Member State or in a language customary in the sphere of

international finance, at the choice of the issuer, the offeror, or the person asking for admission to trading on a regulated market.

The competent authority of each host Member State shall require that the summary referred to in Article 7 be available in its official language or at least one of its official languages, or in another language accepted by the competent authority of that Member State, but it shall not require the translation of any other part of the prospectus.

4. The final terms and the summary of the individual issue shall be drawn up in the same language as the language of the approved base prospectus.

When, in accordance with Article 25(4), the final terms are communicated to the competent authority of the host Member State or, if there is more than one host Member State, to the competent authorities of the host Member States, the following language rules shall apply to the final terms and the summary annexed thereto:

- (a) the summary of the individual issue annexed to the final terms shall be available in the official language or at least one of the official languages of the host Member State, or in another language accepted by the competent authority of the host Member State in accordance with the second subparagraph of paragraph 2 or the second subparagraph of paragraph 3, as applicable;
- (b) where the base prospectus is to be translated pursuant to paragraph 2 or 3, as applicable, the final terms and the summary of the individual issue annexed thereto, shall be subject to the same translation requirements as the base prospectus.

5. Where a prospectus relates to the admission to trading on a regulated market of non-equity securities and admission to trading on a regulated market is sought in one or more Member States, the prospectus shall be drawn up either in a language accepted by the competent authorities of the home and host Member States or in a language customary in the sphere of international finance, at the choice of the issuer, the offeror or the person asking for admission to trading on a regulated market, provided that either:

- (a) such securities are to be traded only on a regulated market, or a specific segment thereof, to which only qualified investors can have access for the purposes of trading such securities; or
- (b) such securities have a denomination per unit of at least EUR 100 000.

English language

- 4.1.2 R For the purposes of article 27 of the *Prospectus Regulation*, English is the language accepted by the *FCA* where the *United Kingdom* is a *Home State* or *Host State*.

Language customary in the sphere of international finance

- 4.1.3 G The *FCA* will consider a language to be customary in the sphere of international finance if documents in that language are accepted for scrutiny and filing in at least three international capital markets in each of the following:
- (1) Europe;
  - (2) Asia; and
  - (3) the Americas.

Summary to be translated into English

- 4.1.4 R If:
- (1) an *offer* is made or *admission to trading* is requested in the *United Kingdom*;
  - (2) a *prospectus* relating to the *transferable securities* has been approved by the competent authority of another *EEA State* and the *prospectus* contains a *summary*; and
  - (3) the *prospectus* is drawn up in a language other than English;
- the *offeror* must ensure that the *summary* is translated into English.

[**Note:** Article 27(2) and (3) of the *Prospectus Regulation*]

## 4.2 Third country issuers

Approval of prospectus drawn up in accordance with the Prospectus Regulation

- 4.2.1 EU Article 28 of the *Prospectus Regulation* provides:

Article 28

### **Offer of securities to the public or admission to trading on a regulated market made under a prospectus drawn up in accordance with this Regulation**

Where a third country issuer intends to offer securities to the public in the Union or to seek admission to trading of securities on a regulated market established in the Union under a prospectus drawn up in accordance with this Regulation, it shall obtain approval of its prospectus, in accordance with Article 20, from the competent authority of its home Member State.

Once a prospectus is approved in accordance with the first subparagraph, it

shall entail all the rights and obligations provided for a prospectus under this Regulation and the prospectus and the third country issuer shall be subject to all of the provisions of this Regulation under the supervision of the competent authority of the home Member State.

Approval of prospectus drawn up in accordance with third country laws

4.2.2 EU Article 29 (1) and (2) of the *Prospectus Regulation* provides:

Article 29

**Offer of securities to the public or admission to trading on a regulated market made under a prospectus drawn up in accordance with the laws of a third country**

1. The competent authority of the home Member State of a third country issuer may approve a prospectus for an offer of securities to the public or for admission to trading on a regulated market, drawn up in accordance with, and which is subject to, the national laws of the third country issuer, provided that:
  - (a) the information requirements imposed by those third country laws are equivalent to the requirements under this Regulation; and
  - (b) the competent authority of the home Member State has concluded cooperation arrangements with the relevant supervisory authorities of the third country issuer in accordance with Article 30.
2. In the case of an offer to the public or admission to trading on a regulated market of securities issued by a third country issuer, in a Member State other than the home Member State, the requirements set out in Articles 24, 25 and 27 shall apply.

## 5 Other provisions

### 5.1 Validity of prospectus

Validity of prospectus

5.1.1 EU Article 12 of the *Prospectus Regulation* provides for the validity of a *prospectus*, *registration document* or a *universal registration document*:

Article 12

**Validity of a prospectus, registration document and universal registration document**

1. A prospectus, whether a single document or consisting of separate documents, shall be valid for 12 months after its approval for offers to the public or admissions to trading on a regulated market,

provided that it is completed by any supplement required pursuant to Article 23.

Where a prospectus consists of separate documents, the period of validity shall begin upon approval of the securities note.

2. A registration document which has been previously approved shall be valid for use as a constituent part of a prospectus for 12 months after its approval.

The end of the validity of such a registration document shall not affect the validity of a prospectus of which it is a constituent part.

3. A universal registration document shall be valid for use as a constituent part of a prospectus for 12 months after its approval as referred to in the first subparagraph of Article 9(2) or after its filing as referred to in the second subparagraph of Article 9(2).

The end of the validity of such a universal registration document shall not affect the validity of a prospectus of which it is a constituent part.

## **5.2 Certificate of approval**

Certificate of approval – prospectus

- 5.2.1 EU Article 25(1) and (2) provides:

Article 25

### **Notification of prospectuses and supplements and communication of final terms**

1. The competent authority of the home Member State shall, at the request of the issuer, the offeror, the person asking for admission to trading on a regulated market or the person responsible for drawing up the prospectus and within one working day following receipt of that request or, where the request is submitted together with the draft prospectus, within one working day following the approval of the prospectus, notify the competent authority of the host Member State with a certificate of approval attesting that the prospectus has been drawn up in accordance with this Regulation and with an electronic copy of that prospectus.

Where applicable, the notification referred to in the first subparagraph shall be accompanied by a translation of the prospectus and any summary, produced under the responsibility of the issuer, the offeror, the person asking for admission to trading on a regulated market or the person responsible for drawing up the prospectus.

The same procedure shall be followed for any supplement to the prospectus.

The issuer, the offeror, the person asking for admission to trading



on a regulated market or the person responsible for drawing up the prospectus shall be notified of the certificate of approval at the same time as the competent authority of the host Member State.

2. Any application of the provisions of Article 18(1) and (2) shall be stated in the certificate of approval, as well as its justification.

Certificate of approval – registration documents or universal registration documents

5.2.2 EU Article 26(1) to (5) provides:

Article 26

**Notification of registration documents or universal registration documents**

1. This Article shall only apply to issues of non-equity securities referred to in point (m)(ii) of Article 2 and to issuers established in a third country referred to in point (m)(iii) of Article 2, where the home Member State chosen for the prospectus approval pursuant to those provisions is different from the Member State whose competent authority has approved the registration document or universal registration document drawn up by the issuer, the offeror or the person asking for admission to trading on a regulated market.
2. A competent authority that has approved a registration document, or a universal registration document and any amendments thereto, shall, at the request of the issuer, the offeror, the person asking for admission to trading on a regulated market or the person responsible for drawing up such document, notify the competent authority of the home Member State for the prospectus approval with a certificate of approval attesting that the registration document, or universal registration document and any amendments thereto, has been drawn up in accordance with this Regulation and with an electronic copy of that document. That notification shall be made within one working day following receipt of the request or, where the request is submitted together with the draft registration document or draft universal registration document, within one working day following the approval of that document.

Where applicable, the notification referred to in the first subparagraph shall be accompanied by a translation of the registration document, or universal registration document and any amendments thereto, produced under the responsibility of the issuer, the offeror, the person asking for admission to trading on a regulated market or the person responsible for drawing up such documents.

The issuer, the offeror, the person asking for admission to trading on a regulated market or the person responsible for drawing up the registration document, or the universal registration document and

any amendments thereto, shall be notified of the certificate of approval at the same time as the competent authority of the home Member State for the prospectus approval.

Any application of the provisions of Article 18(1) and (2) shall be stated in the certificate, as well as its justification.

The competent authority that has approved the registration document, or the universal registration document and any amendments thereto, shall notify ESMA of the certificate of approval of those documents at the same time as it is notified to the competent authority of the home Member State for the prospectus approval.

No fee shall be charged by those competent authorities for the notification, or receipt of notification, of registration documents, or universal registration documents and any amendments thereto, or any related supervisory activity.

3. A registration document or universal registration document notified pursuant to paragraph 2 may be used as a constituent part of a prospectus submitted for approval to the competent authority of the home Member State for the prospectus approval.

The competent authority of the home Member State for the prospectus approval shall not undertake any scrutiny nor approval relating to the notified registration document, or universal registration document and any amendments thereto, and shall approve only the securities note and the summary, and only after receipt of the notification.

4. A registration document or a universal registration document notified pursuant to paragraph 2 shall contain an appendix setting out the key information on the issuer referred to in Article 7(6). The approval of the registration document or universal registration document shall encompass the appendix.

Where applicable pursuant to the second subparagraph of Article 27(2) and the second subparagraph of Article 27(3), the notification shall be accompanied by a translation of the appendix to the registration document or universal registration document produced under the responsibility of the issuer, offeror or person responsible for drawing up the registration document or the universal registration document.

When drawing up the summary, the issuer, offeror or person responsible for drawing up the prospectus shall reproduce the content of the appendix without any changes in the section referred to in point (b) of Article 7(4). The competent authority of the home Member State for the prospectus approval shall not scrutinise that section of the summary.

5. Where a significant new factor, material mistake or material inaccuracy arises or is noted within the timeframe specified in

Article 23(1) and relates to the information contained in the registration document or the universal registration document, the supplement required pursuant to Article 23 shall be submitted for approval to the competent authority which approved the registration document or the universal registration document. That supplement shall be notified to the competent authority of the home Member State for the prospectus approval within one working day following its approval, under the procedure set out in paragraphs 2 and 3 of this Article.

Where a registration document or a universal registration document is simultaneously used as a constituent part of several prospectuses, as provided for in Article 23(5), the supplement shall be notified to each competent authority which has approved such prospectuses.

#### Requests to the FCA to supply a certificate of approval

- 5.2.3 G (1) The following *guidance* applies to a request by a *person* to the *FCA* to supply information referred to in article 25 of the *Prospectus Regulation* to the competent authority of a relevant *Host State*.
- (2) The request should be in writing and should include:
- (a) the relevant *prospectus* as approved (if it has already been approved);
  - (b) a translation of the *summary* if required by the competent authority of a relevant *Host State*; and
  - (c) any information reasonably required by the *FCA* to enable it to supply the information to the other competent authority.
- [**Note:** Information on the required data and format of submission can be found on the Markets section of the *FCA* website.]

- 5.2.4 G The *FCA* will inform the *person* who made the request as soon as practicable after it has supplied the information to the other competent authority.

#### Certificate received from another competent authority

- 5.2.5 G If the *FCA* receives information referred to in article 25 of the *Prospectus Regulation* from another competent authority it will as soon as practicable give notice on the *FCA* website that it has received the information.

### 5.3 Persons responsible for a prospectus

#### Rules only apply if UK is Home State

- 5.3.1 R The *rules* in this section only apply in respect of a *prospectus* if the *United Kingdom* is the *Home State* for the *issuer* in relation to the *transferable*

*securities* to which the *prospectus* relates.

#### Equity shares

- 5.3.2 R (1) This *rule* applies to a *prospectus* relating to:
- (a) *equity shares*;
  - (b) warrants or options to subscribe for *equity shares*, that are issued by the *issuer* of the *equity shares*; and
  - (c) other *transferable securities* that have similar characteristics to *transferable securities* referred to in paragraphs (a) or (b).
- (2) Each of the following *persons* are responsible for the *prospectus*:
- (a) the *issuer* of the *transferable securities*;
  - (b) if the *issuer* is a *body corporate*:
    - (i) each person who is a *director* of that *body corporate* when the *prospectus* is published;
    - (ii) each *person* who has authorised themselves to be named, and is named, in the *prospectus* as a *director* or as having agreed to become a *director* of that *body corporate* either immediately or at a future time; and
    - (iii) each *person* who is a senior executive of any *external management company* of the *issuer*;
  - (c) each *person* who accepts, and is stated in the *prospectus* as accepting, responsibility for the *prospectus*;
  - (d) in relation to an *offer*:
    - (i) the *offeror*, if this is not the *issuer*; and
    - (ii) if the *offeror* is a *body corporate* and is not the *issuer*, each *person* who is a *director* of the *body corporate* when the *prospectus* is published;
  - (e) in relation to a request for the *admission to trading* of *transferable securities*:
    - (i) the *person* requesting admission, if this is not the *issuer*; and
    - (ii) if the *person* requesting admission is a *body corporate* and is not the *issuer*, each *person* who is a *director* of the *body corporate* when the *prospectus* is published; and

- (f) each *person* not falling within any of the previous paragraphs who has authorised the contents of the *prospectus*.

5.3.3 R In *PRR 5.3.2R(2)(b)(iii)*, *external management company* means in relation to an *issuer* that is a *company* which is not a collective investment undertaking, a *person* who is appointed by the *issuer* (whether under a contract of service, a contract for services or any other commercial arrangement) to perform functions that would ordinarily be performed by *officers* of the *issuer* and to make recommendations in relation to strategic matters.

5.3.4 G In considering whether the functions the *person* performs would ordinarily be performed by *officers* of the *issuer*, the *FCA* will consider, among other things:

- (1) the nature of the board of the *issuer* to which the *person* provides services, and whether the board has the capability to act itself on strategic matters in the absence of that *person's* services;
- (2) whether the appointment relates to a one-off transaction or is a longer-term relationship; and
- (3) the proportion of the functions ordinarily performed by *officers* of the *issuer* that is covered by the arrangement.

All other securities

- 5.3.5 R
- (1) This *rule* applies to a *prospectus* relating to *transferable securities* other than those to which *PRR 5.3.2R* applies.
  - (2) Each of the following *persons* are responsible for the *prospectus*:
    - (a) the *issuer* of the *transferable securities*;
    - (b) each *person* who accepts, and is stated in the *prospectus* as accepting, responsibility for the *prospectus*;
    - (c) in relation to an *offer*, the *offeror* of the *transferable securities*, if this is not the *issuer*;
    - (d) in relation to a request for an *admission to trading* of *transferable securities*, the *person* requesting admission, if this is not the *issuer*;
    - (e) if there is a *guarantor* for the issue, the *guarantor* in relation to information in the *prospectus* that relates to the *guarantor* and the *guarantee*; and
    - (f) each *person* not falling within any of the previous paragraphs who has authorised the contents of the *prospectus*.

Issuer not responsible if it has not authorised offer or admission to trading

- 5.3.6 R A *person* is not responsible for a *prospectus* under *PRR* 5.3.2R(2)(a) or (b) or *PRR* 5.3.5R(2)(a) if the *issuer* has not made or authorised the *offer* or the request for *admission to trading* in relation to which the *prospectus* was published.

Publication without director's consent

- 5.3.7 R A *person* is not responsible for a *prospectus* under *PRR* 5.3.2R(2)(b)(i) if it is published without their knowledge or consent and on becoming aware of its publication they, as soon as practicable, gives reasonable public notice that it was published without their knowledge or consent.

Offeror not responsible in certain circumstances

- 5.3.8 R A *person* is not responsible for a *prospectus* under *PRR* 5.3.2R(2)(d) or *PRR* 5.3.5R(2)(c) if:
- (1) the *issuer* is responsible for the *prospectus* in accordance with the *rules* in this section;
  - (2) the *prospectus* was drawn up primarily by the *issuer*, or by one or more *persons* acting on behalf of the *issuer*; and
  - (3) the *offeror* is making the *offer* in association with the *issuer*.

Person may accept responsibility for, or authorise, part of contents

- 5.3.9 R A *person* who accepts responsibility for a *prospectus* under *PRR* 5.3.2R(2)(c) or *PRR* 5.3.5R(2)(b) or authorises the contents of a *prospectus* under *PRR* 5.3.2R(2)(f) or *PRR* 5.3.5R(2)(f), may state that they do so only in relation to specified parts of the *prospectus*, or only in specified respects, and in that case the *person* is responsible under those paragraphs:
- (1) only to the extent specified; and
  - (2) only if the material in question is included in (or substantially in) the form and context to which the *person* has agreed.

Advice in professional capacity

- 5.3.10 R Nothing in the *rules* in this section is to be construed as making a *person* responsible for any *prospectus* by reason only of the *person* giving advice about its contents in a professional capacity.

## 5.4 Miscellaneous

Information to be disclosed to all investors to whom offer addressed

- 5.4.1 EU Article 22(5) of the *Prospectus Regulation* provides:

## Article 22

**Advertisements**

...

5. In the event that material information is disclosed by an issuer or an offeror and addressed to one or more selected investors in oral or written form, such information shall, as applicable, either:
- (a) be disclosed to all other investors to whom the offer is addressed, in the event that a prospectus is not required to be published in accordance with Article 1(4) or (5); or
  - (b) be included in the prospectus or in a supplement to the prospectus in accordance with Article 23(1), in the event that a prospectus is required to be published.

## Exercise of powers under section [87K or 87L] of the Act

- 5.4.2 G Under [sections 87K and 87L] of the *Act*, the *FCA* has various powers including powers to prohibit, restrict or suspend an *offer* and to prohibit, restrict or suspend an *advertisement*. The *FCA* will use these powers if it is necessary to protect investors or the smooth operation of the market is, or may be, jeopardised.

## Calculation of amounts not denominated in euros

- 5.4.3 R For the purposes of articles 7(1) and 27(5) of the *Prospectus Regulation*, a reference to an amount denominated in euros is also a reference to an equivalent amount.
- 5.4.4 R For the purposes of *PRR* 5.4.3R, an amount is an “equivalent amount” if it is an amount of equal value denominated wholly or partly in another currency or unit of account, calculated at:
- (1) in relation to a *prospectus* drawn up as a single document, the date on which the *prospectus* is approved;
  - (2) in relation to a *prospectus* consisting of a *registration document* or a *universal registration document* together with a *securities note* and a *summary*, the date on which the *registration document* or the *universal registration document* is approved;
  - (3) in relation to a *prospectus* consisting of a *base prospectus* and final terms of the *offer*, the date on which the final terms are filed.

## Property valuation reports

- 5.4.5 G To comply with paragraph 130 of the *ESMA Prospectus Recommendations* (to the extent applicable) the *FCA* would expect a valuation report for a

property company to be in accordance with either:

- (1) the Appraisal and Valuation Standards (5th edition) issued by the Royal Institution of Chartered Surveyors; or
- (2) the International Valuation Standards (7th edition) issued by the International Valuation Standards Committee.

5.4.6      G      To comply with [item 2.7 of Annex 4] of the *PR Regulation*, the *FCA* would also expect a valuation report for a property collective investment undertaking to comply with a relevant standard set out in *PRR 5.4.5G*.



## PRR Appendix 1

### PRR App 1.1 Relevant definitions

[**Note:** The following definitions relevant to the *prospectus rules* are extracted from the *Glossary*.]

<i>Act</i>	the Financial Services and Markets Act 2000.	
<i>admission to trading</i>	admission to trading on a <i>regulated market</i> .	
<i>advertisement</i>	(as defined in the <i>Prospectus Regulation</i> ) a communication with both of the following characteristics:	
	(1)	relating to a specific offer of securities to the public or to an admission to trading on a regulated market; and
	(2)	aiming to specifically promote the potential subscription or acquisition of securities.
<i>applicant</i>	an <i>applicant</i> for approval of a <i>prospectus</i> or <i>supplementary prospectus</i> relating to <i>transferable securities</i> .	
<i>base prospectus</i>	a base prospectus referred to in article 8 of the <i>Prospectus Regulation</i> .	
<i>body corporate</i>	(in accordance with section 417(1) of the <i>Act</i> (Definitions)) any body corporate, including a body corporate constituted under the law of a country or territory outside the <i>United Kingdom</i> .	
<i>company</i>	any <i>body corporate</i> .	
<i>director</i>	(in accordance with section 417(1)(a) of the <i>Act</i> ) a <i>person</i> occupying in relation to it the position of a director (by whatever name called) and, in relation to an <i>issuer</i> which is not a <i>body corporate</i> , a <i>person</i> with corresponding powers and duties.	
<i>EEA State</i>	(in accordance with Schedule 1 to the Interpretation Act 1978), in relation to any time:	
	(a)	a state which at that time is a member State; or
	(b)	any other state which is at that time a party to the EEA agreement.
	[ <b>Note:</b> Current non-member State parties to the EEA agreement are Norway, Iceland and Lichtenstein. Where the context requires, references to an EEA State include references to Gibraltar as appropriate.]	
<i>equity share</i>	<i>shares</i> comprised in a <i>company's equity share capital</i> .	

<i>ESMA guidelines on risk factors</i>	guidelines drafted pursuant to article 16(4) of the <i>Prospectus Regulation</i> on the specificity, materiality and presentation of risks factors across categories depending on their nature.	
<i>ESMA Prospectus Opinions</i>	the following opinions published by <i>ESMA</i> :	
	(1)	Framework for the assessment of third country prospectuses under article 20 of the Prospectus Directive (ESMA/2013/317);
	(2)	Assessment of Israeli laws and regulations on prospectuses (ESMA/2015/1015); and
	(3)	Assessment of Turkish laws and regulations on prospectuses (ESMA/2016/268).
<i>ESMA PD Prospectus Questions and Answers</i>	the Questions and Answers on the <i>Prospectus Directive</i> published by <i>ESMA</i> (ESMA31-62-780).	
<i>ESMA PR Prospectus Questions and Answers</i>	the Questions and Answers on the <i>Prospectus Regulation</i> published by <i>ESMA</i> (ESMA/2019/ESMA31-62-1258).	
<i>ESMA Prospectus Recommendations</i>	the <i>ESMA</i> update of the CESR recommendations: The consistent implementation of Commission Regulation (EC) No 809/2004 implementing the Prospectus Directive (ESMA/2013/319).	
<i>executive procedures</i>	(1)	the procedures relating to the giving of warning notices, decision notices and <i>supervisory notices</i> that are described in <i>DEPP</i> 4 (Decisions by <i>FCA</i> staff under executive procedures);
	(2)	the procedures relating to the giving of written notices under the <i>AIFMD UK regulation</i> that are described in <i>FUND</i> App 1.
<i>external management company</i>	has the meaning in <i>PRR</i> 5.3.3R.	
<i>FCA</i>	the Financial Conduct Authority.	
<i>guarantee</i>	(as defined in the <i>PR Regulation</i> ) any arrangement intended to ensure that any obligation material to the issue will be duly serviced, whether in the form of guarantee, surety, keep well agreement, mono-line insurance policy or other equivalent commitment.	
<i>guarantor</i>	a <i>person</i> that provides a <i>guarantee</i> .	

<i>Home State</i>	in relation to an issuer of <i>transferable securities</i> , the <i>EEA State</i> which is the “home Member State” for the purposes of the <i>Prospectus Regulation</i> (which is to be determined in accordance with article 2(m) of that regulation).
<i>Host State</i>	(as defined in Article 2(n) of the <i>Prospectus Regulation</i> ) the <i>EEA State</i> where an offer of securities to the public is made or admission to trading on a regulated market is sought, where different from the home Member State.
<i>issuer</i>	(as defined in article 2(h) of the <i>Prospectus Regulation</i> ) a legal person who issues or proposes to issue the <i>transferable securities</i> in question.
<i>listing particulars</i>	(in accordance with section 79(2) of the <i>Act</i> ), a document in such form and containing such information as may be specified in <i>listing rules</i> .
<i>offer</i>	an <i>offer of transferable securities to the public</i> .
<i>offer of transferable securities to the public</i>	(as defined in the <i>Prospectus Regulation</i> ) 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 for those securities. This definition also applies to the placing of securities through financial intermediaries.
<i>offeror</i>	a <i>person</i> who makes an <i>offer of transferable securities to the public</i> .
<i>officer</i>	(in relation to a <i>body corporate</i> ) (as defined in section 400(5) of the <i>Act</i> (Offences by bodies corporate etc)) a director, member of the committee of management, <i>chief executive</i> , <i>manager</i> , secretary, or other similar officer of the body, or a <i>person</i> purporting to act in that capacity or a <i>controller</i> of the body.
<i>PD</i>	Prospectus Directive.
<i>PD Regulation</i>	Regulation number 809/2004 of the European Commission.
<i>person</i>	(in accordance with the <i>Interpretation Act 1978</i> ) any person, including a body of persons corporate or unincorporated that is, a natural person, a legal person and, for example, a <i>partnership</i> ).
<i>PR Regulation</i>	[Regulation number XXX/XXXX of the European Commission.]
<i>PRIIPs Regulation</i>	Regulation (EU) No 1286/2014 of the European Parliament and of the Council of 26 November 2014 on key information documents for packaged retail and insurance-based investment products (PRIIPs). <a href="http://data.europa.eu/eli/reg/2014/1286/oj">http://data.europa.eu/eli/reg/2014/1286/oj</a>
<i>prospectus</i>	a prospectus required under the <i>Prospectus Regulation</i> .
<i>Prospectus Regulation</i>	Regulation (EU) No 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.	
<i>Prospectus RTS Regulation</i>	[Commission Delegated Regulation (EU) XXX]	
<i>PRR</i>	the Prospectus Regulation Rules sourcebook.	
<i>registration document</i>	a registration document referred to in article 6(3) of the <i>Prospectus Regulation</i> .	
<i>rule</i>	(in accordance with section 417(1) of the <i>Act</i> (Definitions)) a rule made by the <i>FCA</i> under the <i>Act</i> .	
<i>securities note</i>	a securities note referred to in article 6(3) of the <i>Prospectus Regulation</i> .	
<i>statutory notice associated decision</i>	a decision which is made by the <i>appropriate regulator</i> and which is associated with a decision to give a <i>statutory notice</i> , including a decision:	
	(a)	to determine or extend the period for making representations;
	(b)	to determine whether a copy of the <i>statutory notice</i> needs to be given to any third party and the period for him to make representations;
	(c)	to refuse access to <i>appropriate regulator</i> material.
<i>statutory notice decision</i>	a decision by the <i>appropriate regulator</i> on whether or not to give a <i>statutory notice</i> .	
<i>summary</i>	(in relation to a <i>prospectus</i> ) the summary included in the <i>prospectus</i> .	
<i>supplementary prospectus</i>	a supplementary prospectus containing details of a new factor, mistake or inaccuracy.	
<i>transferable security</i>	(as defined in [section 102A] of the <i>Act</i> ) anything which is a transferable security for the purposes of <i>MiFID</i> , other than money-market instruments for the purposes of that directive which have a maturity of less than 12 months.	
	[ <b>Note:</b> In the <i>Prospectus Regulation</i> and <i>PR Regulation</i> , the term “security” rather than “transferable security” is used.]	
<i>United Kingdom</i>	England and Wales, Scotland and Northern Ireland (but not the Channel Islands or the Isle of Man).	
<i>universal registration document</i>	a universal registration document referred to in article 9 of the <i>Prospectus Regulation</i> .	
<i>working day</i>	(as defined in section 103 of the <i>Act</i> ) any day other than a Saturday, a Sunday, Christmas Day, Good Friday or a day which is a bank holiday under the Banking and Financial Dealings Act 1971 in any part of the <i>United</i>	

	<i>Kingdom.</i>
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## PRR Appendix 2

### PRR 2.1 Disclosure Annexes

App 2.1.1EU	The following annexes are copied from the <i>PR Regulation</i> :	
	[PLACEHOLDER: TEXT FROM LEVEL 2 INSTRUMENT TO BE INCLUDED FOLLOWING PUBLICATION IN THE OFFICAL JOURNAL.]	

**TP 1 Transitional Provisions for prospectuses approved before 21 July 2019**

## TP 1.1R

(1)	(2)	(3)	(4)		(5)	(6)
	Material to which the Transitional Provision applies		Transitional Provision		Transitional Provision: dates in force	Handbook Provision: coming into force
1	All of <i>PR</i>	R	<i>PR</i> shall continue to apply to any <i>prospectus</i> approved under <i>PR</i> before 21 July 2019 until the earlier of:		From 21 July 2019	
			(a)	the end of its validity under <i>PR</i> 5.1; or		
			(b)	21 July 2020.		

## Schedule 6      Rules that can be waived or modified

### 6.1G

1.	As a result of section 138A of the <i>Act</i> (Modification or waiver of rules) the <i>FCA</i> has power to waive all its <i>rules</i> , other than <i>rules</i> made under section 137O (Threshold condition code), section 247 (Trust scheme rules), section 248 (Scheme particular rules), section 261I (Contractual scheme rules) or section 261J (Contractual scheme particulars rules) of the <i>Act</i> . However, if the <i>rules</i> incorporate requirements laid down in European directives, it will not be possible for the <i>FCA</i> to grant a waiver that would be incompatible with the <i>United Kingdom's</i> responsibilities under those directives.
2.	In addition, article 18 (Omission of information) of the <i>Prospectus Regulation</i> provides the <i>FCA</i> with discretion to authorise omissions from disclosure requirements derived from the <i>Prospectus Regulation</i> in the circumstances specified in that article.

## Annex B

## 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>ESMA guidelines on risk factors</i>	guidelines drafted pursuant to article 16(4) of the <i>Prospectus Regulation</i> on the specificity, materiality and presentation of risks factors across categories depending on their nature.
<i>ESMA PR Prospectus Questions and Answers</i>	the Questions and Answers on the <i>Prospectus Regulation</i> published by ESMA (ESMA/2019/ESMA31-62-1258).
<i>PR Regulation</i>	[Regulation number XXX/XXXX of the European Commission.]
<i>universal registration document</i>	a universal registration document referred to in article 9 of the <i>Prospectus Regulation</i> .

Amend the following definitions as shown.

<i>admission to trading</i>	...
	(2) (in <del>PR</del> <u>PRR</u> and <i>DTR</i> ) admission to trading on a <i>regulated market</i> .
<i>advertisement</i>	(in <del>PR</del> <u>PRR</u> and <i>LR</i> 4) (as defined in the <del>PD-Regulation</del> <i>Prospectus Regulation</i> ) <u>announcements</u> a communication with both of the following characteristics:
	(1) relating to a specific offer of securities to the public or to an admission to trading on a regulated market; and
	(2) aiming to specifically promote the potential subscription or acquisition of securities.
<i>applicant</i>	...
	(2) (in <del>PR</del> <u>PRR</u> ) an applicant for approval of a <i>prospectus</i> or <i>supplementary prospectus</i> relating to <i>transferable securities</i> .
<i>asset backed security</i>	(as defined in the <del>PD-Regulation</del> <u>PR Regulation</u> ) <i>securities</i> which:



	...
<i>base prospectus</i>	(in <i>Part 6 rules</i> ) a base prospectus referred to in <del>PR 2.2.7R</del> <u>article 8 of the <i>Prospectus Regulation</i></u> .
<i>collective investment undertaking other than the closed end type</i>	(in <del>PR PRR</del> ) (as defined in article 2(p) of the <i>Prospectus Regulation</i> <del>Article 2.1(o) of the <i>prospectus directive</i></del> ) unit trusts and investment companies with both of the following characteristics: <ol style="list-style-type: none"> <li>(a) <del>the object of which is the collective investment of capital provided by the public, and which operate on the principle of risk spreading;</del> <u>[deleted]</u></li> <li>(b) <del>The units of which are, at the holder's request, repurchased or redeemed, directly or indirectly, out of the assets of these undertakings.</del> <u>[deleted]</u></li> <li>(c) <u>they raise capital from a number of investors, with a view to investing it in accordance with a defined investment policy for the benefit of those investors;</u></li> <li>(d) <u>their units are, at the holder's request, repurchased or redeemed, directly or indirectly, out of their assets.</u></li> </ol>
<i>director</i>	<ol style="list-style-type: none"> <li>(1) (except in <i>COLL</i>, <i>DTR</i>, <i>LR</i> and <del>PR PRR</del>) (in relation to any of the following (whether constituted in the <i>United Kingdom</i> or under the law of a country or territory outside it)):</li> </ol> <p>...</p> <ol style="list-style-type: none"> <li>(3) (in <i>DTR</i>, <i>LR</i> and <del>PR PRR</del>) (in accordance with section 417(1)(a) of the <i>Act</i>) a person occupying in relation to it the position of a director (by whatever name called) and, in relation to an issuer which is not a body corporate, a person with corresponding powers and duties.</li> </ol>
<i>equity security</i>	<p>...</p> <ol style="list-style-type: none"> <li>(2) (in <del>FEES and PR</del>) (as defined in <del>Article 2.1(b) of the <i>Prospectus Directive</i></del> <u>article 2(b) of the <i>Prospectus Regulation</i></u>) 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 of the aforementioned securities as a consequence of their being converted or 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 the said issuer.</li> </ol>
<i>ESMA</i>	the following opinions published by <i>ESMA</i> :

*Prospectus  
Opinions*

- (1) ~~Format of the base prospectus and consistent application of article 26(4) of the Prospectus Regulation (ESMA/2013/1944); [deleted]~~
- (2) Framework for the assessment of third country prospectuses under article 20 of the Prospectus Directive (ESMA/2013/317);
- (3) Assessment of Israeli laws and regulations on prospectuses (ESMA/2015/1015); and
- (4) Assessment of Turkish laws and regulations on prospectuses (ESMA/2016/268).

*ESMA PD  
Prospectus  
Questions and  
Answers*

the Questions and Answers for prospectuses on the *Prospectus Directive* published by ESMA (~~ESMA/2016/1674~~ ESMA31-62-780)

*external  
management  
company*

(in *LR* and ~~*PR*~~ *PRR*) has the meaning in ~~*PR* 5.3.3AR~~ *PRR* 5.3.3R.

*guarantee*

...

- (2) (in ~~*PR*~~ *PRR*) [(as defined in the ~~*PD Regulation*~~ *PR Regulation*)] any arrangement intended to ensure that any obligation material to the issue will be duly serviced, whether in the form of guarantee, surety, keep well agreement, mono-line insurance policy or other equivalent commitment.

*guarantor*

(in ~~*PR*~~ *PRR*) a person that provides a *guarantee*.

*Home Member  
State*

(in ~~*DTR*~~; ~~*PR*~~ and *LR*) *Home State*.

*Host Member  
State*

(in ~~*PR*~~ and *LR*) *Host State*.

*Home State*

...

- (8) (in *LR* and ~~*PR*~~ *PRR*) (as defined in [section 102C] of the Act) in relation to an issuer of *transferable securities*, the *EEA State* which is the “home Member State” for the purposes of the ~~*prospectus directive*~~ *Prospectus Regulation* (which is to be determined in accordance with ~~Article 2.1(m) of that directive~~ article 2(m) of that regulation).

...

*Host State*

- (1) (in *LR* and ~~*PR*~~ *PRR*) (as defined in ~~Article 2.1(n) of the *Prospectus*~~

*Directive* article 2(n) of the *Prospectus Regulation*) the *EEA State* where an offer of securities to the public is made or admission to trading is sought, where different from the *Home State*.

...

- (2) (except in *LR*, ~~*PR*~~ *PRR* and *DTR* and except in relation to *MiFID*) the *EEA State* in which an *EEA firm*, a *UK firm*, or a *Treaty firm* is exercising an *EEA right* or *Treaty right* to establish a branch or provide cross border services.

...

*issuer*

...

- (4) (in ~~*PR*~~ *PRR* and *FEES* in relation to ~~*PR*~~ *PRR*) (as defined in ~~section 102A of the Act~~ article 2(h) of the *Prospectus Regulation*) a legal person who issues or proposes to issue the *transferable securities* in question.

*non-equity transferable securities*

(in ~~*PR*~~ *PRR*) (as defined in ~~section 102A of the Act~~ article 2(c) of the *Prospectus Regulation*) all *transferable securities* that are not equity securities.

*listing particulars*

(in *LR* and *PRR*) (in accordance with [section 79(2)] of the *Act*), a document in such form and containing such information as may be specified in *listing rules*.

*offer*

...

- (3) (in *LR* and ~~*PR*~~ *PRR*) an *offer of transferable securities to the public*.

*offer of transferable securities to the public*

(in ~~*PR*~~ *PRR* and *LR*) (as defined in the *Prospectus Regulation*) 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 for those securities. This definition also applies to the placing of securities through financial intermediaries. (~~as defined in section 102B of the Act~~), in summary:

- (a) a communication to any person which presents sufficient information on:
- (i) the transferable securities to be offered, and
  - (ii) the terms on which they are offered;
- to enable an investor to decide to buy or subscribe for the securities in question;
- (b) which is made in any form or by any means;

- (e) ~~including the placing of securities through a financial intermediary;~~
- (d) ~~but not including a communication in connection with trading on:~~
  - (i) ~~a regulated market;~~
  - (ii) ~~a multilateral trading facility; or~~
  - (iii) ~~any market prescribed by an order under section 130A of the Act.~~

~~Note: This is only a summary; to see the full text of the definition, readers should consult section 102B of the Act.~~

*offeror*

...

- (2) (in *LR* (except *LR* 5.2.10R to *LR* 5.2.11DR), ~~*PR*~~ and *FEES* provisions in relation to ~~*PR*~~ *PRR*) (as defined in the *Prospectus Regulation*) a person who makes an offer of transferable securities to the public.

*overseas company*

(in *LR* ~~and *PR*~~) a company incorporated outside the *United Kingdom*.

*PRR*

- (1) (in *BIPRU*) position risk requirement.
- (2) (except in *BIPRU*) the Prospectus Regulation Rules sourcebook.

*profit estimate*

(in *PR* and *LR*) (as defined in the ~~*PD Regulation*~~ *PR Regulation*) a profit forecast for a financial period which has expired and for which results have not yet been published.

*profit forecast*

(in *PR* and *LR*) (as defined in the ~~*PD Regulation*~~ *PR Regulation*) a form of words which expressly states or by implication indicates a figure or a minimum or maximum figure for the likely level of profits or losses for the current financial period and/or financial periods subsequent to that period, or contains data from which a calculation of such a figure for future profits or losses may be made, even if no particular figure is mentioned and the word “profit” is not used.

*prospectus*

- (1) (in *LR* and ~~*PR*~~ *PRR*, *FEES* and *FUND* 3 (Requirements for managers of alternative investment funds)) a prospectus required under the ~~*prospectus directive*~~ *Prospectus Regulation*.
- (2) (except in *LR* and ~~*PR*~~ *PRR*) (in relation to a *collective investment scheme*) a document containing information about the *scheme* and complying with the *requirements* in *COLL* 4.2.5R (Table: contents of the prospectus), *COLL* 8.3.4R (Table: contents of qualified investor scheme prospectus) or *COLL* 9.3.2R (Additional information required in the prospectus for an application under section 272) applicable to a *prospectus* of a *scheme* of the type concerned.

<i>Prospectus RTS Regulations Regulation</i>	(1)	<del>[Commission Delegated Regulation (EU) XXX] Commission Delegated Regulation (EU) No 382/2014 supplementing Directive 2003/71/EC of the European Parliament and of the Council with regard to regulatory technical standards for publication of supplements to the prospectus; and</del>
	(2)	<del>Commission Delegated Regulation (EU) 2016/301 supplementing Directive 2003/71/EC of the European Parliament and of the Council with regard to regulatory technical standards for approval and publication of the prospectus and dissemination of advertisements and amending Commission Regulation (EC) No 809/2004.</del>
<i>public international body</i>	(1)	<del>(in <i>PR</i>) (as defined in the <i>PD Regulation</i>) a legal entity of public nature established by an international treaty between sovereign States and of which one or more Member States are members.</del>
	(2)	(in <i>LR</i> and <i>DTR</i> ) the African Development Bank, the Asian Development Bank, the Caribbean Development Bank, the Council of Europe Development Bank, the European Atomic Energy Community, the European Bank for Reconstruction and Development, the European Company for the Financing of Railroad Stock, the <i>EU</i> , the European Investment Bank, the Inter-American Development Bank, the International Bank for Reconstruction and Development, the International Finance Corporation, the International Monetary Fund and the Nordic Investment Bank.
<i>registration document</i>		(in <i>Part 6 rules</i> and <i>COBS 11A</i> ) a registration document referred to in <i>PR 2.2.2R</i> article 6(3) of the <i>Prospectus Regulation</i> .
<i>securities note</i>		(in <i>Part 6 rules</i> ) a securities note referred to in <i>PR 2.2.2R</i> article 6(3) of the <i>Prospectus Regulation</i> .
<i>small and medium-sized enterprise</i>	(1)	(in <i>MAR 5</i> ) companies that had an average market capitalisation of less than €200,000,000 based on end-year quotes for the previous three calendar years.
		[Note: article 4(1)(13) of <i>MiFID</i> ]
	(2)	<del>(in <i>PR</i>) (as defined in article 2.1(f) of the <i>prospectus directive</i>) 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 and an annual net turnover not exceeding €50,000,000.</del>
<i>special purpose vehicle</i>	(1)	<del>(in <i>PR</i>) (as defined in the <i>PD Regulation</i>) an issuer whose objects and purposes are primarily the issue of securities.</del>
	(2)	(except in <i>PR</i> ) a body corporate, explicitly established for the purpose of securitising assets, whose sole purpose (either generally

or when acting in a particular capacity) is to carry out one or more of the following functions:

...

- |                              |   |
|------------------------------|---|
| <i>transferable security</i> | (1) (in <del>PR</del> <u>PRR</u> and <i>LR</i> ) (as defined in [section 102A] of the <i>Act</i> ) anything which is a transferable security for the purposes of <i>MiFID</i> , other than money-market instruments for the purposes of that directive which have a maturity of less than 12 months.    |
| <i>working day</i>           | (1) (in <del>PR</del> <u>PRR</u> and <i>COMP</i> ) [(as defined in [section 103] of the <i>Act</i> )] any day other than a Saturday, a Sunday, Christmas Day, Good Friday or a day which is a bank holiday under the Banking and Financial Dealings Act 1971 in any part of the <i>United Kingdom</i> . |

Delete the following definitions. The text is not shown struck through.

- |                            |   |
|----------------------------|---|
| <i>building block</i>      | (as defined in the <i>PD Regulation</i> ) a list of additional information requirements, not included in one of the schedules, to be added to one or more schedules, as the case may be, depending on the type of instrument and/or transaction for which a prospectus or base prospectus is drawn up.  |
| <i>equivalent document</i> | a document containing information equivalent to a <i>prospectus</i> for the purposes of <i>PR</i> 1.2.2R(2) or (3) or <i>PR</i> 1.2.3R(3) or (4).   |
| <i>key information</i>     | <p>(in <i>PR</i>) (as defined in section 87A(9) and (10) of the <i>Act</i>) the information which is essential to enable investors to understand the <i>transferable securities</i> to which the <i>prospectus</i> relates and decide whether to consider the <i>offer</i> further. The <i>key information</i> must include:</p> <ul style="list-style-type: none"> <li>(a) the essential characteristics of, and risks associated with, the issuer and any guarantor, including their assets, liabilities and financial positions;</li> <li>(b) the essential characteristics of, and risks associated with, investment in the <i>transferable securities</i>, including any rights attaching to the <i>securities</i>;</li> <li>(c) the general terms of the <i>offer</i>, including an estimate of the expenses charged to an investor by the <i>issuer</i> and the person offering the <i>securities</i> to the public, if not the <i>issuer</i>;</li> <li>(d) details of the <i>admission to trading</i>; and</li> <li>(e) the reasons for the <i>offer</i> and proposed use of the proceeds.</li> </ul> |
| <i>offering programme</i>  | (in <i>PR</i> ) (as defined in Article 2.1(k) of the <i>prospectus directive</i> ) a plan which would permit the issuance of non-equity securities, including warrants in any form, having a similar type and/or class, in a continuous or repeated manner during a specified issuing period.   |

<i>PR</i>	the Prospectus Rules sourcebook.
<i>property collective investment undertaking</i>	(in <i>PR</i> ) (as defined in the <i>PD Regulation</i> ) a collective investment undertaking whose investment objective is the participation in the holding of property in the long term.
<i>qualified investor</i>	<p>(in <i>PR</i>) (as defined in section 86(7) of the <i>Act</i>) in relation to an offer of <i>transferable securities</i>:</p> <ul style="list-style-type: none"> <li>(a) a person or entity described in points (1) to (4) of Section I of Annex II to <i>MiFID</i>, other than a <i>person</i> who, before the making of the <i>offer</i>, has agreed in writing with the relevant firm (or each of the relevant firms) to be treated as a <i>non-professional client</i> in accordance with <i>MiFID</i>; or</li> <li>(b) a <i>person</i> who has made a request to one or more relevant firms to be treated as a <i>professional client</i> in accordance with Section II of Annex II to <i>MiFID</i> and has not subsequently, but before the making of the <i>offer</i>, agreed in writing with that relevant firm (or each of those relevant firms) to be treated as a <i>non-professional client</i> in accordance with the final paragraph of Section I of Annex II to <i>MiFID</i>; or</li> <li>(c) a person who is an <i>eligible counterparty</i> in accordance with article 30 of <i>MiFID</i> and has not, before the making of the <i>offer</i>, agreed in writing with the relevant firm (or each of the relevant firms) to be treated as a <i>non-professional client</i> in accordance with the final paragraph of Section I of Annex II of <i>MiFID</i>; or</li> <li>(d) a person whom: <ul style="list-style-type: none"> <li>(i) any relevant firm was authorised to continue to treat as a <i>professional client</i> immediately before 3 January 2018 by virtue of article 71.6 of Directive 2004/39/EC of the European Parliament and of the Council of 21 April 2004 on markets in financial instruments; and</li> <li>(ii) the firm may continue to treat as a <i>professional client</i> from 3 January 2018 by virtue of Section II.2 of Annex II to <i>MiFID</i>.</li> </ul> </li> </ul>
<i>risk factors</i>	(in <i>PR</i> ) (as defined in the <i>PD Regulation</i> ) a list of risks which are specific to the situation of the issuer and/or the securities and which are material for taking investment decisions.
<i>schedule</i>	(in <i>Part 6 rules</i> ) (as defined in the <i>PD Regulation</i> ) a list of minimum information requirements adapted to the particular nature of the different types of <i>issuers</i> and/or the different <i>securities</i> involved.
<i>securities issued in a continuous</i>	(in <i>PR</i> ) (as defined in Article 2.1(l) of the <i>prospectus directive</i> ) issues on tap or at least two separate issues of securities of a similar type and/or class over a period of 12 months.

*and repeated  
manner*

*umbrella  
collective  
investment  
scheme* (in *PR*) (as defined in the *PD Regulation*) a collective investment undertaking invested in one or more collective investment undertakings, the asset of which is composed of separate class(es) or designation(s) of securities.

*units of a  
collective  
investment  
scheme* (in *PR*) (as defined in Article 2.1(p) of the *prospectus directive*) securities issued by a collective investment undertaking as representing the rights of the participants in such an undertaking over its assets.



## Annex C

### Senior Management Arrangements, Systems and Controls (SYSC)

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

#### 18 Whistleblowing

...

#### 18.6 Whistleblowing obligations under MiFID and other EU legislation

...

Whistleblowing obligations under other EU legislation

- 18.6.4 G In addition to obligations under *MiFID*, similar whistleblowing obligations apply to miscellaneous persons subject to regulation by the *FCA* under the following non-exhaustive list of *EU* legislation:

...

- (3) article 99d(5) of the *UCITS Directive* (see *SYSC* 4.1.1ER in respect of *UK UCITS management companies*, and *COLL* 6.6B.30R in respect of *depositories*); ~~and~~
- (4) article 24(3) of the *securities financing transactions regulation*; and
- (5) article 41(4) of the *Prospectus Regulation*, as implemented in [section 98] of the *Act*.

## Annex D

### Amendments to the Fees manual (FEES)

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

### 3 Application, Notification and Vetting Fees

...

### 3 UKLA transaction fees Annex 12R

...

Category A1 includes:

...

- (f) ~~submitting a summary document for review under PR 1.2.3R (8)~~ [deleted];

...

Category A2 includes:

...

- (b) where an *issuer* has a market capitalisation of less than £500 million:

...

- (iv) ~~submitting a document equivalent to a prospectus for review under PR 1.2.2R(2), PR 1.2.2R(3), PR 1.2.3R(3) or PR 1.2.3R(4); or~~  
[deleted]

- (v) applying for the approval of a universal registration document;

...

- (d) where an issuer is a *closed-ended investment fund*:

...

- (iv) ~~submitting a document equivalent to a prospectus for review under PR 1.2.2R(2), PR 1.2.2R(3), PR 1.2.3R(3) or PR 1.2.3R(4); or~~  
[deleted]

- (v) applying for the approval of a universal registration document; or

...

Category A4 includes:

...

- (f) ~~submitting a document equivalent to a prospectus for review under PR 1.2.2R(2), PR 1.2.2R(3), PR 1.2.3R(3) or PR 1.2.3R(4)~~ applying for the approval of a universal registration document; or

...

...

## Annex E

### Amendments to the Conduct of Business sourcebook (COBS)

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

#### 4 Communicating with clients, including financial promotions

...

##### 4.3 Financial promotions to be identifiable as such

4.3.1 R ...

- (3) If a *financial promotion* relates to a *firm's* business that is not *MiFID* or *equivalent third country business*, this rule applies to *communicating* or *approving the financial promotion* but does not apply:

...

- (b) to the extent that it is a prospectus advertisement to which ~~PR~~ 3.3 article 22 of the *Prospectus Regulation* applies;

...

...

##### 4.5 Communicating with retail clients (non-MiFID provisions)

Application

4.5.1 R ...

- (3) This section does not apply in relation to a communication:

...

- (b) to the extent that it is a prospectus advertisement to which ~~PR~~ 3.3 article 22 of the *Prospectus Regulation* applies;

...

...

##### 4.6 Past, simulated past and future performance (non-MiFID provisions)

Application

4.6.1 R ...

- (3) This section does not apply in relation to a communication:

...

- (b) to the extent that it is a prospectus advertisement to which ~~PR~~  
3.3 article 22 of the *Prospectus Regulation* applies;

...

...

#### **4.7 Direct offer financial promotions**

...

Other direct offer financial promotions

4.7.1 R ...

- (4) This section does not apply in relation to a communication:

...

- (b) to the extent that it is a prospectus advertisement to which ~~PR~~  
3.3 article 22 of the *Prospectus Regulation* applies;

...

...

#### **4.9 Financial promotions with an overseas element**

Application

4.9.1 R ...

- (3) If a communication relates to a *firm's* business that is not *MiFID* or  
*equivalent third country business*, this section does not apply:

...

- (b) to the extent that it is a prospectus advertisement to which ~~PR~~  
3.3 article 22 of the *Prospectus Regulation* applies;

...

...

#### **4.11 Record keeping: financial promotion**

4.11.1 R

...

- (5) If a communication relates to a *firm*'s business that is not *MiFID* or *equivalent third country business*, this section does not apply:

...

- (b) to the extent that it is a prospectus advertisement to which ~~PR 3.3~~ article 22 of the *Prospectus Regulation* applies;

...

...

## 11A Underwriting and placing

### 11A.1 Underwriting and placing

...

Application of requirements for information flows during equity IPOs

11A.1. R COBS 11A.1.4BR to COBS 11A.1.4FR apply to a *firm* that:  
4A

- (1) has *agreed to carry on regulated activities* for a *client* that is an *issuer* ("the *issuer client*") that include underwriting or placing of *financial instruments*, where:

...

- (d) an approved *prospectus* will be required in accordance with ~~section 85 of the Act~~ article 3 of the *Prospectus Regulation* for the relevant securities;

...

...

Timing restrictions for disseminating research on equity IPOs

11A.1. R ...  
4F

- (4) For this *rule*, publication of the relevant document means making the relevant document available to the public in ~~any of the ways set out at PR 3.2.4R(1) to (4) (Method of publishing)~~ accordance with article 21 of the *Prospectus Regulation*.

...

...

## 14 Providing product information to clients

...

### 14.3 Information about designated investments (non-MiFID provisions)

- 14.3.3 R If a *firm* provides a *retail client* with information about a *designated investment* that is the subject of a current offer to the public and a prospectus has been published in connection with that offer in accordance with the ~~*Prospectus Directive*~~ *Prospectus Regulation*, that *firm* must inform the *retail client* where that prospectus is made available to the public.

...

## 22 Restrictions on the distribution of certain regulatory capital instruments

...

### 22.3 Restrictions on the retail distribution of contingent convertible instruments and CoCo funds

...

#### Exemptions

- 22.3.2 R Each of the exemptions listed below applies only if the *retail client* is of the type described for the exemption and provided any additional conditions for the exemption are met.

Title	Type of retail client	Additional comments
...		
Prospectus	Any <i>retail client</i> .	The restrictions do not apply to the distribution of a prospectus required under the <del><i>Prospectus Directive</i></del> <i>Prospectus Regulation</i> .
...		

...

## Annex F

## Amendments to the Market Conduct sourcebook (MAR)

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

## 5 Multilateral trading facilities (MTFs)

...

### 5.10 Operation of an SME growth market

...

5.10.2 R For an *MTF* to be eligible for registration as an *SME growth market*, the *firm* must have effective rules, systems and procedures which ensure that:

...

- (3) on initial admission to trading of *financial instruments* on the market, there is sufficient information to enable investors to make an informed judgement about whether or not to invest in the *financial instruments* published in either:

...

- (b) a prospectus, if the ~~*Prospectus Directive*~~ *Prospectus Regulation* is applicable in respect of a public offer being made in conjunction with the initial admission to trading of the *financial instrument* on the *MTF*;

...



## Annex G

### Amendments to the Product Intervention and Product Governance sourcebook (PROD)

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

#### 3            **Product governance: MiFID**

...

#### 3.3        **Distribution of products and investment services**

...

- 3.3.8      R      Acceptable publicly available information is information which is clear, reliable and produced to meet regulatory requirements, such as disclosure requirements under the *transparency rules* or the ~~*prospectus rules*~~ *Prospectus Regulation*.

...

## Annex H

### Supervision Manual (SUP)

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

#### 13A      Qualifying for authorisation under the Act

...

#### 13A      Application of the Handbook to Incoming EEA Firms

#### Annex 1

...		
<del>PR</del> <u>PRR</u>	<del>PR</del> <u>PRR</u> (Prospectus <u>Regulation</u> Rules) ...	<del>PR</del> <u>PRR</u> (Prospectus <u>Regulation</u> Rules) ...
...		

## Annex I

### Amendments to the Decision Procedure and Penalties Manual (DEPP)

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

## 6 Penalties

...

### 6.2 Deciding whether to take action

...

Action against directors, former directors and persons discharging managerial responsibilities for breaches under Part VI of the Act

- 6.2.10 G The primary responsibility for ensuring compliance with Part VI of the *Act*, the *Part 6 rules*, the *prospectus rules* or a provision ~~otherwise made in accordance with the *Prospectus Directive*~~ of the *Prospectus Regulation* or a requirement imposed under such provision rests with the persons identified in [section 91(1) and section 91(1A)] (Penalties for breach of Part 6 rules) of the *Act* respectively. Normally therefore, any disciplinary action taken by the *FCA* for contraventions of these obligations will in the first instance be against those persons.

...

## Annex J

### Amendments to the Investment Funds sourcebook (FUND)

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

#### 3 Requirements for alternative investment fund managers

...

##### 3.2 Investor information

...

- 3.2.4 R Where the *AIF* is required to publish a *prospectus* under ~~section 85 of the Act or the equivalent provision implementing article 3 of the *Prospectus Directive* in the *AIF's Home State*~~ article 3 of the *Prospectus Regulation*, only information referred to in *FUND* 3.2.2R and 3.2.3R that is additional to that contained in the *prospectus* needs to be disclosed, either separately or as additional information in the *prospectus*.

[**Note:** article 23(3) of *AIFMD*]

...

## Annex K

### Amendments to the Regulated Covered Bonds sourcebook (RCB)

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

#### 1 Introduction

##### 1.1 Introduction to sourcebook

...

- 1.1.9 G (1) *Issuers* which are subject to an obligation to publish a prospectus under the ~~*Prospectus Directive*~~ *Prospectus Regulation* are required by ~~Article 3~~ [Chapter II] of the ~~*PD Regulation*~~ *PR Regulation* to disclose risk factors. These requirements are set out in ~~*PR 2.3.1EU*~~ and ~~*PR App 3.1.1EU*~~ *PRR 2.3.1EU* and *PRR App 2.1.1EU*.

[Editor's Note: References to Level 2 legislation to be confirmed after that legislation comes into force.]

...

...

## Annex L

### Amendments to the Listing Rules sourcebook (LR)

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

#### 1 Preliminary: All securities

##### 1.1 Introduction

1.1.1 R LR applies as follows:

...

**Note:** Other parts of the Handbook that may also be relevant to *issuers* or *sponsors* include *DTR* (the Disclosure Guidance and Transparency Rules sourcebook), ~~*PR*~~ *PRR* (the Prospectus Regulation Rules sourcebook), *COBS* (the Conduct of Business sourcebook), *DEPP* (Decision Procedure and Penalties Manual), Chapter 9 of *SUP* (the Supervision manual) and *GEN* (General Provisions).

...

#### 2 Requirements for listing: All securities

##### 2.2 Requirements for all securities

...

Prospectus

2.2.10 R (1) This rule applies if under the *Act*, the *Prospectus Regulation* or under the law of another *EEA State*:

...

...

...

#### 3 Listing applications: All securities

...

##### 3.4 Debt and other securities

...

Issuance programmes: final terms

3.4.8 R ...

**Note:** For further details on *final terms*, see ~~PR 2.2.9R~~ article 8(5) of the *Prospectus Regulation*.

...

Exempt public sector issuers

- 3.4.9 R A public sector issuer that seeks *admission of debt securities* referred to in ~~paragraphs 2 and 4 of Schedule 11A of the Act~~ article 1(2)(b) and (d) of the *Prospectus Regulation* must submit to the FCA in final form a completed Application for Admission of Securities to the official List.

...

...

- 3.4.9C G Apart from LR 3.4.9R, LR 3.4.9AG and LR 3.4.9BG no other provisions in LR 3.4 apply to the *admission of debt securities* referred to in ~~paragraphs 2 and 4 of Schedule 11A of the Act~~ article 1(2)(b) and (d) of the *Prospectus Regulation*.

...

## 3.5 Block listing

...

When a block listing can be used

...

- 3.5.3 G The grant of a block listing constitutes *admission to listing* for the *securities* that are the subject of the block. Separately, the provisions of ~~PR 1.2.2R~~ article 1(4) of the *Prospectus Regulation* will need to be considered by the *applicant* when the *securities* that are the subject of the block listing are being issued.

...

## 4 Listing particulars for professional securities market and certain other securities: All securities

### 4.1 Application and Purpose

Application

- 4.1.1 R This chapter applies to an *issuer* that has applied for the *admission* of:
- (1) *securities* specified in ~~Schedule 11A of the Act~~ article 1(2) of the *Prospectus Regulation* (other than *securities* specified in ~~paragraphs 2, 4 or 9 of that Schedule~~ article 1(2)(b) or (d) of that regulation); or

- (2) any other *specialist securities* for which a *prospectus* is not required under the ~~*prospectus directive*~~ *Prospectus Regulation*.

#### Purpose

- 4.1.2 G (1) The purpose of this chapter is to require *listing particulars* to be prepared and published for *securities* that are the subject of an application for *listing* in the circumstances set out in LR 4.1.1R where a *prospectus* is not required under the ~~*prospectus directive*~~ *Prospectus Regulation*.

...

...

## 4.2 Contents and format of listing particulars

...

#### Summary

- 4.2.2 R (1) The *listing particulars* must contain a *summary* that complies with the requirements in ~~section 87A(5) and (6) of the Act and PR 2.1.4EU to PR 2.1.7R~~ articles 7 and 27(4) of the *Prospectus Regulation* and [Chapter I of the *Prospectus RTS Regulation*] (as if those requirements applied to the *listing particulars*).
- (2) Paragraph (1) does not apply:
- ...
- (b) if, in accordance with ~~PR 2.1.3R~~ article 7(1) of the *Prospectus Regulation*, no *summary* would be required in relation to the *securities*.

#### Format of listing particulars

- 4.2.3 R (1) The *listing particulars* must be in a format that complies with the relevant requirements in ~~PR 2.2~~ the *Prospectus Regulation* and the *PD-Regulation* *PR Regulation* (as if those requirements applied to the *listing particulars*).

#### Minimum information to be included

- 4.2.4 R The following minimum information from the ~~*PD-Regulation*~~ *PR Regulation* must be included in *listing particulars*:
- (1) for an issue of bonds including bonds convertible into the *issuer's shares* or exchangeable into a third party *issuer's shares* or derivative *securities*, irrespective of the denomination of the issue, the minimum information required by ~~the *schedules* applicable to debt and derivative *securities* with a denomination per unit of at~~



least 100,000 euros [Annexes 7 and 15 of the *PR Regulation*];

- (2) the additional information required by ~~the underlying share building block~~ [Annexes 17 and 18 of the *PR Regulation*] where relevant;
- (3) for an issue of *asset-backed securities*, irrespective of the denomination per unit of the issue, the minimum information required by ~~the schedules and building blocks applicable to asset-backed securities with a denomination per unit of at least 100,000 euros~~ [Annexes 9, 15 and 19 of the *PR Regulation*];
- (4) for an issue of *certificates representing shares*, irrespective of the denomination per unit of the issue, ~~the schedule applicable to depositary receipts over shares with a denomination per unit of at least 100,000 euros (except that item 13.2 (relating to profit forecasts) in Annex 10 and Annex 28 is not to apply)~~ the minimum information required by [Annexes 5 and 13 (for a primary issuance) of the *PR Regulation*];
- (5) for an issue of *securities* by the government of a *non-EEA State* or a local or regional authority of a *non-EEA State*, ~~the schedule applicable to securities issued by third countries and their regional and local authorities~~ minimum information required by [Annexes 10 and 15 of the *PR Regulation*]; and
- (6) for all issues that are guaranteed, the minimum information in the guarantee building block required by [Annex 21 of the *PR Regulation*].

- 4.2.5 G For all other issues, the *FCA* would expect issuers to follow the most appropriate ~~schedules and building blocks~~ Annexes in the ~~*PD Regulation*~~ *PR Regulation* to determine the minimum information to be included in *listing particulars*.

Incorporation by reference

- 4.2.6 R An issuer may incorporate information by reference in the *listing particulars* as if ~~PR 2.4~~ article 19 of the *Prospectus Regulation* and the ~~*PD Regulation*~~ *PR Regulation* applied to the *listing particulars*.

Equivalent information

- 4.2.7 R An issuer may include equivalent information in *listing particulars* as if ~~PR 2.5.1R~~ article 18(2) of the *Prospectus Regulation* applied to the *listing particulars*.

...

## 4.3 Approval and publication of listing particulars

Approval of listing particulars

- 4.3.1 R An application for approval of *listing particulars* or *supplementary listing particulars* must comply with the procedures in ~~PR 3.1~~ PRR 3.1 (as if those procedures applied to the application), except that the applicant does not need to submit a completed form A.

...

- 4.3.3 G The *FCA* will try to notify the applicant of its decision on an application for approval of *listing particulars* or *supplementary listing particulars* within the same time limits as are specified in ~~section 87C of the Act~~ article 20 of the *Prospectus Regulation* for an application for approval of a *prospectus* or *supplementary prospectus*.

...

Filing and publication of listing particulars etc

- 4.3.5 R An *issuer* must ensure that after *listing particulars* or *supplementary listing particulars* are approved by the *FCA*, the *listing particulars* or *supplementary listing particulars* are filed and published as if the relevant requirements in ~~PR 3.2~~ PRR 3.2, article 21 of the *Prospectus Regulation*, the ~~PD Regulation~~ PR Regulation and ~~Commission Delegated Regulation (EU) 2016/301~~ the *Prospectus RTS Regulation* applied to them.

#### 4.4 Miscellaneous

...

- 4.4.2 R An *issuer* must ensure that after *supplementary listing particulars* are approved by the *FCA*, the *supplementary listing particulars* are filed and published as if the requirements in ~~PR 3.2~~ PRR 3.2, article 21 of the *Prospectus Regulation*, the ~~PD Regulation~~ PR Regulation and ~~Commission Delegated Regulation (EU) 2016/301~~ the *Prospectus RTS Regulation* applied to them.

Final terms

- 4.4.3 R If final terms of the offer are not included in the *listing particulars*:
- (1) the final terms must be provided to investors and filed with the *FCA*, and made available to the public, as if the relevant requirements in ~~PR 3.2~~ PRR 3.2, article 21 of the *Prospectus Regulation*, and the ~~PD Regulation~~ PR Regulation and the *Prospectus RTS Regulation* applied to them; and

...

...

## 5 Suspending, cancelling and restoring listing and reverse takeovers: All

## securities

...

## 5.6 Reverse takeovers

...

Reverse takeover by a shell company: target not subject to a public disclosure regime

5.6.15 G ...

- (2) a description of the *target* to include key non-financial operating or performance measures appropriate to the *target's* business operations and the information as required under [~~PR~~ PRR Appendix 3 Annex 1 item 12 2 Annex 1 Section 10 (Trend information)] for the *target*;

[Editor's Note: References to Level 2 legislation to be confirmed after that legislation comes into force.]

...

...

## 6 Additional requirements for premium listing (commercial company)

...

## 6.2 Historical financial information requirements

...

Audit requirements for historical financial information

6.2.4 R The historical financial information in *LR* 6.2.1R and *LR* 6.2.3R must:

- (1) have been audited or reported on in accordance with the standards acceptable under [~~item 20.1~~ Section 18 of Annex I 1 of the ~~PD Regulation~~ PR Regulation]; and

[Editor's Note: References to Level 2 legislation to be confirmed after that legislation comes into force.]

...

...

## 8 Sponsors: Premium listing

...

## 8.2 When a sponsor must be appointed or its guidance obtained

When a sponsor must be appointed

- 8.2.1 R A company with, or applying for, a *premium listing* of its *securities* must appoint a *sponsor* on each occasion that it:
- (1) is required to submit any of the following documents to the *FCA* in connection with an application for *admission* of *securities* to *premium listing*:
    - (a) a *prospectus*, or *supplementary prospectus* ~~or equivalent document~~; or
    - ...
    - (c) a summary document as required by ~~PR 1.2.3R(8)~~ article 1(5)(j) of the *Prospectus Regulation*; or
    - ...
  - (1A) is required to publish a document under article 1(4)(f) or (g) or (5)(e) or (f) of the *Prospectus Regulation*; or
  - ...

...

## 8.4 Role of a sponsor: transactions

Application for admission

- 8.4.1 R LR 8.4.2R to LR 8.4.4G apply in relation to an application for *admission* of *securities* to *premium listing* if an *applicant* does not have *securities* already admitted to *premium listing*, the conditions in LR 6.1.1R(1), LR 6.1.1R(2), LR 21.2.5R(1), LR 21.2.5R(2), LR 21.6.13R(1) or LR 21.6.13R(2) do not apply and, in connection with the application, the *applicant* is required to publish a document under article 1(4)(f) or (g) or (5)(e) or (f) of the *Prospectus Regulation* or is required to submit to the *FCA*:
- (1) a *prospectus*, or *supplementary prospectus* ~~or equivalent document~~; or
  - ...
  - (3) a summary document under ~~PR 1.2.3R(8)~~ article 1(5)(j) of the *Prospectus Regulation*; or
  - ...

...

New applicants: procedure

- 8.4.3 R A *sponsor* must:
- (1) submit a completed Sponsor's Declaration on an Application for Listing to the *FCA* either:
    - ...
    - (b) at a time agreed with the *FCA*, if the *FCA* is not approving the *prospectus* ~~or if it is determining whether a document is an equivalent document~~;
    - ...
  - (3) ...
    - have been disclosed with sufficient prominence in the *prospectus* or ~~equivalent document~~ a document published under article 1(4)(f) or (g) or (5)(e) or (f) of the *Prospectus Regulation* or otherwise in writing to the *FCA*; and
  - (4) submit a letter to the *FCA* setting out how the *applicant* satisfies the criteria in *LR 2* (Requirements for listing - all securities), *LR 6* (Additional requirements for premium listing (commercial company)) and, if applicable, *LR 15*, *LR 16* or *LR 21*, no later than when the first draft of the *prospectus* or *listing particulars* is submitted (or, if the *FCA* is not approving a prospectus ~~or if it is determining whether a document is an equivalent document~~, at a time to be agreed with the *FCA*).

...

Further issues: procedure

- 8.4.9 R A *sponsor* must:
- ...
  - (3) ensure that all matters known to it which, in its reasonable opinion, should be taken into account by the *FCA* in considering the application for *listing* have been disclosed with sufficient prominence in the *prospectus* or ~~equivalent document~~ a document published under article 1(4)(f) or (g) or (5)(e) or (f) of the *Prospectus Regulation* or otherwise in writing to the *FCA*.

...

## 9 Continuing obligations

...

## 9.2 Requirements with continuing application

...

9.2.19 G *LR 9.2.18R* does not apply to:

- (1) pro forma financial information prepared in accordance with [Annex 1 and Annex 20] of the ~~*PD Regulation*~~ *PR Regulation*; or  
[Editor's Note: References to Level 2 legislation to be confirmed after that legislation comes into force.]

...

...

## 9.5 Transactions

...

Reconstruction or refinancing

9.5.12 R ...

- (3) The working capital statement required by paragraph (1) must be prepared in accordance with [item 3.1 of Annex 3 ~~11~~ of the ~~*PD Regulation*~~ *PR Regulation*] and on the basis that the reconstruction or the re-financing has taken place.  
[Editor's Note: References to Level 2 legislation to be confirmed after that legislation comes into force.]

...

## 9.6 Notifications

...

Notification of lock-up agreements

9.6.16 R *A listed company* must notify a *RIS* as soon as possible of information relating to the disposal of *equity shares* under an exemption allowed in the lock-up arrangements disclosed in accordance with the ~~*PD Regulation*~~ *PR Regulation*.

9.6.17 R *A listed company* must notify a *RIS* as soon as possible of the details of any variation in the lock-up arrangements disclosed in accordance with the ~~*PD Regulation*~~ *PR Regulation* or any subsequent announcement.

...

## 13 Contents of circulars: Premium listing

...

**13.3 Contents of all circulars**

...

## Pro forma financial information in certain circulars

- 13.3.3 R If a *listed company* includes pro forma financial information in a *class 1 circular*, a *related party circular* or a *circular* relating to the purchase by the *company* of 25% or more its issued *equity shares* (excluding *treasury shares*), it must comply with the requirements for pro forma financial information set out in the ~~*PD-Regulation*~~ *PR Regulation*.

...

**13.4 Class 1 circulars**

...

**13.5 Financial information in Class 1 Circulars**

...

## Source of information

...

- 13.5.7 G In complying with LR 13.5.6R a *listed company* should:

...

- (3) indicate which aspects of the financial information relate to:

...

- (c) pro forma financial information prepared in accordance with [Annex 1 and Annex 20] of the ~~*PD-Regulation*~~ *PR Regulation*;

[Editor's Note: References to Level 2 legislation to be confirmed after that legislation comes into force.]

...

## Profit forecasts and profit estimates

- 13.5.32 R If a *listed company* includes a *profit forecast* or a *profit estimate* in a *class 1 circular* it must:

- (1) comply with the requirements for a *profit forecast* or *profit estimate* set out in Annex 1 of the ~~*PD-Regulation*~~ *PR Regulation* ~~except that a *listed company* does not need to include a report on the forecast or~~

~~estimate from an accountant in the class 1 circular;~~ and

...

...

## 13.6 Related party circulars

Related party circulars

13.6.1 R A related party circular must also include:

- (1) in all cases the following information referred to in the ~~PD Regulation~~ PR Regulation relating to the *company*:

Paragraph of Annex 1 of the ~~PD Regulation~~ PR Regulation:

- (a) [Annex 1 item ~~5.1.1~~ 4.1 – Issuer name;
  - (b) Annex 1 item ~~5.1.4~~ 4.4 – Issuer address;
  - (c) Annex 1 item ~~18.1~~ 16.1 – Major shareholders;
  - (d) Annex 1 item ~~20.9~~ 18.7.1 – Significant changes in the issuer's financial position;
  - (e) Annex 1 item ~~22~~ 20.1 – Material contracts (if it is information which shareholders of the *company* would reasonably require to make a properly informed assessment of how to vote);
  - (f) Annex 1 item ~~24~~ 21.1 – Documents ~~on display~~ available];
- (2) for a transaction or arrangement where the *related party* is (or was within the 12 months before the transaction or arrangement), a *director* or *shadow director*, or an *associate* of a *director* or *shadow director*, of the *company* (or of any other *company* which is its *subsidiary undertaking* or *parent undertaking* or a fellow *subsidiary undertaking*) the following information referred to in the ~~PD Regulation~~ PR Regulation relating to that *director*:

Paragraph of Annex 1 of the ~~PD Regulation~~ PR Regulation:

- (a) [Annex 1 item ~~16.2~~ 14.2 – Service contracts;
- (b) Annex 1 item ~~17.2~~ 15.2 – ~~Directors' interests in shares~~ Shareholdings and stock options;
- (c) Annex 1 item ~~19~~ 17.1 – Related party transactions;]  
[Editor's Note: References to Level 2 legislation to be confirmed after that legislation comes into force.]

...



## 13.7 Circulars about purchase of own equity shares

Purchase of own equity shares

13.7.1 R ...

- (2) If the exercise in full of the authority sought would result in the purchase of 25% or more of the *company's* issued *equity shares* (excluding *treasury shares*) the *circular* must also include the following information referred to in the ~~*PD-Regulation*~~ *PR Regulation*:
- (a) Annex 1 item ~~4~~ 3.1 – Risk factors;
  - (b) Annex 1 ~~item 12~~ Section 10 – Trend information;
  - (c) Annex 1 item ~~17.2~~ 15.2 – Shareholdings and stock options ~~Director's interests in shares~~;
  - (d) Annex 1 item ~~18.4~~ 16.1 – Major interests in shares;
  - (e) Annex 1 item ~~20.9~~ 18.7.1 – Significant changes in the issuer's financial position;
  - (f) Annex ~~3~~ 11 item 3.1 – Working capital statement (this must be based on the assumption that the authority sought will be used in full at the maximum price allowed and this assumption must be stated). This information is not required to be included in a *circular* issued by a *closed-ended investment fund*.

...

## 13 Class 1 circulars

### Annex 1

The following table identifies (by reference to certain paragraphs of [Annex 1 and Annex ~~3~~ 11] of the ~~*PD-Regulation*~~ *PR Regulation*) the additional information required to be included in a *class 1 circular* relating to the *listed company* and the undertaking the subject of the transaction.

[Editor's Note: References to Level 2 legislation in LR 13 Annex 1 Class 1 circulars and Annex 1.1 to be confirmed after that legislation comes into force.]

Information	Listed Company	Undertaking the subject of the
-------------	----------------	--------------------------------

		transaction
[Annex 1 item 4 <u>3.1</u> – Risk factors	*	*
Annex 1 item <del>5.1.1</del> <u>4.1</u> – Company name	*	
Annex 1 item <del>5.1.4</del> <u>4.4</u> – Company address	*	
Annex 1 item <del>12</del> <u>Section 10</u> – Trend information	*	*
Annex 1 item <del>16.2</del> <u>14.2</u> – Service contracts	*	
Annex 1 item <del>17.2</del> <u>15.2</u> – <del>Director's interests in shares</del> <u>Shareholdings and stock options</u>	*	
Annex 1 item <del>18.1</del> <u>16.1</u> – Major interests in shares	*	
Annex 1 item <del>19</del> <u>17.1</u> – Related party transactions	*	
Annex 1 item <del>20.8</del> <u>18.6.1</u> – <del>Litigation</del> <u>Legal and arbitration proceedings</u>	*	*
Annex 1 item <del>20.9</del> <u>18.7.1</u> – <del>Significant changes</del> <u>change in the issuer's financial position</u>	*	*
Annex 1 item <del>22</del> <u>20.1</u> – Material contracts	*	*

		Annex 1 item <del>24</del> <u>21.1</u> – Documents <del>on display</del> <u>available</u>	*	
		Annex <del>3</del> <u>11</u> item 3.1 – Working capital <u>statement</u> ]	*	*
<b>13 Annex 1.1</b>	1	The information required by this Annex must be presented as follows:		
		(1)	the information required by [Annex 1 item <del>22</del> <u>20.1</u> (material contracts), Annex 1 item <del>20.8 (litigation)</del> <u>18.6.1 (legal and arbitration proceedings)</u> and Annex 1 item <del>20.9 (significant change)</del> <u>18.7.1 (significant changes in the issuer's financial position)</u> ]	
		...		
		(2)	the information required by [Annex <del>3</del> <u>11</u> item 3.1 (working capital <u>statement</u> ) and, if relevant Annex 1 <del>item 12</del> <u>section 10</u> (trend information)]:	
		...		
	2	In determining what information is required to be included by virtue of [Annex 1 item <del>22</del> <u>20.1</u> (material contracts)] if a <i>prospectus</i> or <i>listing particulars</i> are not required, regard should be had to whether information about that provision is information which <i>securities</i> holders of the <i>issuer</i> would reasonably require for the purpose of making a properly informed assessment about the way in which to exercise the voting rights attached to their <i>securities</i> or the way in which to take any other action required of them related to the subject matter of the <i>circular</i> .		
	3	The information required by this Annex is modified as follows:		
		(1)	if the <i>listed company</i> is issuing <i>shares</i> for which <i>listing</i> is sought, the information regarding major interests in <i>shares</i> [(Annex 1 item <del>18.1</del> <u>16.1</u> )] and <i>directors'</i> interests in <i>shares</i> [(Annex 1 item <del>17.2</del> <u>15.2</u> )] must be given for the share capital both as existing and as enlarged by the <i>shares</i> for which <i>listing</i> is sought;	
		(2)	information required by [Annex 1 item <del>19</del> <u>17.1</u> (related party transactions) and Annex 1 item <del>16.2</del> <u>14.2</u> (directors' service contracts)] does not need to be given if it has already been published before the circular is sent;	
		(3)	information referred to in [Annex <del>3</del> <u>11</u> item 3.1 (Working capital <u>statement</u> )] is not required to be included in a <i>class 1 circular</i> published by a <i>closed-ended investment fund</i> ;	

		(4)	information required by [Annex 1 item <del>4</del> 3.1] should be provided only in respect of those risk factors which:	
		...		
		(5)	information required by [Annex 1 item <del>24</del> 21.1] must include a copy of the Sale and Purchase Agreement (or equivalent document) if applicable.	
...				

## 21 Sovereign Controlled Commercial Companies: Premium listing

...

### 21.6 Requirements for listing: Certificates representing shares

...

Additional requirements for the issuer

...

- 21.6.14 R If the *prospectus* or *listing particulars* for the *certificates representing shares* that are being admitted does not include a working capital statement which demonstrates that LR 6.7.1R is satisfied, then:

...

- (2) the working capital statement required by paragraph (1) must be prepared in accordance with [item 3.1 of Annex ~~3~~ 11] of the ~~PD Regulation~~ PR Regulation; and

[Editor's Note: References to Level 2 legislation to be confirmed after that legislation comes into force.]

...

...

### 21.8 Continuing obligations: Certificates representing shares

...

Additional requirements: working capital statement

- 21.8.27 R In relation to an application for *admission of certificates representing shares* of an *applicant* that has *certificates representing shares* already listed:

...

- (2) if the *prospectus* or *listing particulars* for the *certificates representing shares* that are being admitted does not include a working capital statement which demonstrates that the requirement under paragraph (1) is satisfied, then:

...

- (b) the working capital statement required by paragraph (a) must be prepared in accordance with [item 3.1 of Annex 3 11] of the ~~*PD-Regulation*~~ *PR Regulation*; and

[Editor's Note: References to Level 2 legislation to be confirmed after that legislation comes into force.]

...

...

## Appendix 1 Relevant definitions

### App 1.1 Relevant definitions

**Note:** The following definitions relevant to the *listing rules* are extracted from the *Glossary*.

...	
<i>advertisement</i>	(as defined in the <del><i>PD-Regulation</i></del> <i>Prospectus Regulation</i> ) <del>announcements</del> <u>a communication with both of the following characteristics:</u>
	(1) relating to a specific offer of securities to the public or to an admission to trading on a regulated market; and
	(2) aiming to specifically promote the potential subscription or acquisition of securities.
<i>asset backed security</i>	(as defined in the <del><i>PD-Regulation</i></del> <i>PR Regulation</i> ) <i>securities</i> which:
...	
<i>base prospectus</i>	a base prospectus referred to in <del><i>PR 2.2.7R</i></del> <u>article 8 of the <i>Prospectus Regulation</i></u> .
...	
<i>building block</i>	(as defined in the <del><i>PD-Regulation</i></del> ) <del>a list of additional information requirements, not included in one of the schedules, to be added to one or more schedules, as the case may be, depending on the type of instrument and/or transaction for which a prospectus or base prospectus is drawn up.</del>
...	

<i>equivalent document</i>	a document containing information equivalent to a <i>prospectus</i> for the purposes of <del>PR 1.2.2R(2) or (3) or PR 1.2.3R(3) or (4).</del>	
...		
<i>external management company</i>	(in <i>LR</i> and <del>PR PRR</del> ) has the meaning in <del>PR 5.3.3AR</del> <u>PRR 5.3.3R</u> . (i.e., in relation to an <i>issuer</i> that is a <i>company</i> which is not a collective investment undertaking, a <i>person</i> who is appointed by the <i>issuer</i> (whether under a contract of service, a contract for services or any other commercial arrangement) to perform functions that would ordinarily be performed by <i>officers</i> of the <i>issuer</i> and to make recommendations in relation to strategic matters).	
...		
<i>Home Member State or Home State</i>	(as defined in section [102C of the Act]) in relation to an issuer of <i>transferable securities</i> , the <i>EEA State</i> which is the “home Member State” for the purposes of the <del>prospectus directive</del> <u>Prospectus Regulation</u> (which is to be determined in accordance with <del>Article 2.1(m) of that directive</del> <u>article 2(m) of that regulation</u> ).	
<i>Host Member State or Host State</i>	(as defined in <del>Article 2.1(n) of the Prospectus Directive</del> <u>article 2(n) of the Prospectus Regulation</u> ) the <i>EEA State</i> where an offer of <u>securities</u> to the public is made or <i>admission to trading</i> is sought, when different from the <i>home Member State</i> .	
...		
<i>offer of transferable securities to the public</i>	<del>(as defined in section 102B of the Act), in summary:</del>	
	(a)	<del>a communication to any person which presents sufficient information on:</del>
		(i) <del>the transferable securities to be offered, and</del>
		(ii) <del>the terms on which they are offered;</del>
		<del>to enable an investor to decide to buy or subscribe for the securities in question;</del>
	(b)	which is made in any form or by any means;
	(c)	including the placing of securities through a financial intermediary;
	(d)	but not including a communication in connection with trading on:
		(i) a regulated market;
		(ii) a multilateral trading facility; or

	(iii)	any market prescribed by an order under section 130A of the <i>Act</i> .
	<p>Note: This is only a summary; to see the full text of the definition, readers should consult section 102B of the <i>Act</i>.</p> <p>(as defined in the <i>Prospectus Regulation</i>) 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 for those securities. This definition also applies to the placing of securities through financial intermediaries.</p>	
...		
<i>PD</i>	<del>prospectus directive.</del>	
<i>PD Regulation</i>	Regulation number 809/2004 of the European Commission	
...		
<i>PR</i>	<del>the sourcebook containing the <i>Prospectus Rules</i>.</del>	
...		
<i>profit estimate</i>	(as defined in the <del><i>PD Regulation</i></del> <i>PR Regulation</i> ) a profit forecast for a financial period which has expired and for which results have not yet been published.	
<i>profit forecast</i>	(as defined in the <del><i>PD Regulation</i></del> <i>PR Regulation</i> ) a form of words which expressly states or by implication indicates a figure or a minimum or maximum figure for the likely level of profits or losses for the current financial period and/or financial periods subsequent to that period, or contains data from which a calculation of such a figure for future profits or losses may be made, even if no particular figure is mentioned and the word “profit” is not used.	
...		
<i>prospectus</i>	a prospectus required under the <del>prospectus directive</del> <i>Prospectus Regulation</i> .	
<i>prospectus directive</i>	<del>the Directive of the European Parliament and of the Council of 4 November 2003 on the prospectus to be published when securities are offered to the public or admitted to trading (No 2003/71/EC).</del>	
...		
<i>registration document</i>	a registration document referred to in <del><i>PR 2.2.2R</i></del> article 6(3) of the <i>Prospectus Regulation</i> .	
...		

<i>schedule</i>	(as defined in the <i>PD Regulation</i> ) a list of minimum information requirements adapted to the particular nature of the different types of <i>issuers</i> and/or the different <i>securities</i> involved.
...	
<i>securities note</i>	a securities note referred to in <del>PR 2.2.2R</del> article 6(3) of the <i>Prospectus Regulation</i> .

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

<i>PRR</i>	the Prospectus Regulation Rules sourcebook.
<i>PR Regulation</i>	[Regulation number XXX/XXXX of the European Commission.]
<i>universal registration document</i>	a universal registration document referred to in article 9 of the <i>Prospectus Regulation</i> .



## Annex M

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

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

**1B Introduction (Corporate governance)****1B.1 Application and purpose (Corporate governance)**

...

**Exemptions**

1B.1.3 R *DTR 7.1* does not apply to:

...

- (3) a *credit institution* whose *shares* are not *admitted to trading* and which has, in a continuous or repeated manner, issued only *debt securities* which are *admitted to trading* provided that:

...

- (b) the *credit institution* has not been subject to a requirement to publish a prospectus in accordance with ~~section 85 of the Act~~ article 3 of the *Prospectus Regulation*; and

...

...

**4 Periodic Financial Reporting**

...

**4.4 Exemptions**

...

4.4.3 R The *rules* on half-yearly financial reports (*DTR 4.2*) do not apply to a *credit institution* whose *shares* are not *admitted to trading* and which has, in a continuous or repeated manner, only issued *debt securities* provided that:

...

- (2) the *credit institution* has not published a prospectus in accordance with the ~~prospectus directive~~ *Prospectus Regulation*.

...

## Annex N

## Amendments to the Enforcement Guide (EG)

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

## 7 Financial penalties and other disciplinary sanctions

...

### 7.2 Alternatives to sanctions

7.2.1 The *FCA* also has measures available to it where it considers it is appropriate to take protective or remedial action. These include:

...

(5) where there are reasonable grounds for suspecting that a provision of Part VI of the *Act*, a provision contained in the *prospectus rules*, or any other provision made in accordance with the *Prospectus Directive Regulation* has been infringed, the *FCA* may:

- (a) Suspend, restrict or prohibit the offer to the public of transferable securities as set out in [section 87K] of the *Act*; or
- (b) Suspend, restrict or prohibit admission of transferable securities to trading on a regulated market or a trading facility as set out in [section 87L] of the *Act*;

...

...

## Appendix 2 Guidelines on investigation of cases of interest or concern to the Financial Conduct Authority and other prosecuting and investigating agencies

### Appendix 2.1 Purpose, status and application of the guidelines

...

Indicators for deciding which agency should take action

Appendix 2.1.9 The following are indicators of whether action by the *FCA* or one of the other agencies is more appropriate. They are not listed in any particular order or ranked according to priority. No single feature of the case should be considered in isolation, but rather the whole case should be considered in the round.

- (a) Tending towards action by the *FCA*

...

Where the suspected conduct in question would be best dealt with by:

...

proceedings for breaches of the *Prospectus Regulation* actionable under Part VI of the *Act*, of *Part 6 rules* or the *Prospectus Rules* or a provision otherwise made in accordance with the *Prospectus Directive*.

...

**Appendix 3**    **Appendix to the guidelines on investigation of cases of interest or concern to the financial conduct authority and other prosecuting and investigating agencies**

**Appendix 3.1**    **The FCA**

...

Appendix 3.1.3    Under the 2000 Act the *FCA* has powers to investigate concerns including:

...

suspected contraventions of the *Prospectus Regulation* or any directly applicable *EU* regulation made under the *Prospectus Regulation* and suspected breaches of Part VI of the *Act*, of *Part 6 rules* or the *prospectus rules* or a provision otherwise made in accordance with the *Prospectus Directive*.

...

...

## Annex O

### Amendments to the Perimeter Guidance Manual (PERG)

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

#### 8 Financial promotion and related activities

...

#### 8.21 Company statements, announcements and briefings

...

Article 70: Promotions included in listing particulars, etc

8.21.20 G Article 70 applies to a *non-real time financial promotion* included in:

...

- (3) a prospectus or supplementary prospectus approved in line with *Prospectus Rules* or by the *competent authority* of another *EEA State* (provided the requirements of ~~section 87H of the Act~~ article 25 of the *Prospectus Regulation* are met) – including part of such a prospectus or supplementary prospectus; or
- (4) any other document required or permitted to be published by *listing rules* or *Prospectus Rules*.

Article 70 also applies to a *non-real time financial promotion* comprising the final terms of an offer or the final offer price or amount of *securities* which will be offered to the public and that complies with ~~articles 5(4), 8(1) and 14(2) of the *Prospectus Directive*~~ articles 8(1), 8(4), 8(5), 8(10), 25(4), 17 and 21(2) of the *Prospectus Regulation*.

...

#### 8.37 AIFMD Marketing

Introduction and purpose

8.37.1 G ...

- (2) The purpose of this section is to give *guidance* on:

...

- (f) the interaction between the marketing of an *AIF* and the ~~*prospectus directive*~~ *Prospectus Regulation* (see PERG 8.37.15G).

...

## The interaction between marketing and the prospectus directive

- 8.37.15 G (1) ~~The *prospectus directive* has not been amended by AIFMD and closed~~ Closed ended AIFs that are making an offer of securities to the public as defined in the ~~*prospectus directive*~~ Prospectus Regulation need to comply with the requirements under both ~~Directives AIFMD and the *Prospectus Regulation*.~~
- (2) However, where the AIF is required to publish a *prospectus* under ~~section 85 of the Act~~ article 3 of the *Prospectus Regulation* or the equivalent provision implementing article 3 of the *Prospectus Directive* in the AIF's *Home State*, only information referred to in *FUND 3.2.2R* and *FUND 3.2.3R* that is additional to that contained in the *prospectus* needs to be disclosed, either separately or as additional information in the *prospectus*.

