

Removing the Transparency Directive's requirement to publish interim management statements

Including feedback on CP14/12 and final rules

November 2014



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In this Policy Statement we report on the main issues arising from Consultation Paper 14/12 (*'Removing the Transparency Directive's requirement to publish interim management statements'*) and publish the final rules.

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You can download this Policy Statement from our website: www.fca.org.uk.

Abbreviations used in this paper

AD	Accounting Directive (2013/34/EU)
BIS	Department for Business, Innovation & Skills
DTR	Disclosure Rules and Transparency Rules
EC	European Commission
EU	European Union
FCA	Financial Conduct Authority
FSMA	Financial Services and Markets Act 2000
LR	Listing Rules
TD	Transparency Directive (2004/109/EC)
TDAD	Transparency Directive Amending Directive (2013/50/EU)
the Treasury	HM Treasury

1. Overview

Introduction

- 1.1** On 23 July 2014 we published a Consultation Paper (CP)¹ proposing, at the request of HM Treasury (the Treasury), to implement the Transparency Directive Amending Directive's (TDAD) removal of the requirement to publish interim management statements. In this Policy Statement, we summarise the feedback we received on that CP and explain our response to this feedback. We will implement this change early and remove this requirement with effect from 7 November 2014. This Policy Statement sets out the rules that will come into force on that date.

Who does this affect?

- 1.2** This Policy Statement will be of interest to:
- issuers of shares admitted to trading on a regulated market where the UK acts as home Member State and the FCA's Disclosure Rules and Transparency Rules ('DTR's) apply;
 - firms advising issuers;
 - firms or persons investing or dealing in securities; and
 - primary information providers.

Is this of interest to consumers?

- 1.3** Our final rules on the removal of the requirement to publish interim management statements are of interest to consumers who deal in shares admitted to trading on a regulated market where the issuer is subject to the FCA's DTRs.

Context

- 1.4** The TDAD removes the requirement to publish interim management statements. The removal of this requirement will apply to all issuers of shares admitted to trading on a regulated market when the TDAD is implemented in full on a pan-European basis in November 2015.

¹ www.fca.org.uk/news/cp14-12

- 1.5** At the request of the Treasury, we are implementing this change early and will remove this requirement with effect from 7 November 2014. Until full implementation of the TDAD on a pan-European basis in November 2015, this change to the DTRs will only affect issuers of shares admitted to trading on a regulated market where the UK acts as home Member State and the FCA's DTRs apply.

Summary of feedback and our responses

- 1.6** We received 20 responses to CP14/12 from 9 individual firms, 10 trade associations and 1 individual.
- 1.7** In Chapter 2, we summarise the feedback received and explain our response. Responses were mostly supportive of our proposal to support the Government's commitment and remove early the requirement to publish interim management statements. However, a number of respondents raised queries about future reporting and the mechanisms for voluntary publication of interim management statements, as well as the potential for lack of consistency of disclosures which may result from interim management statements made on a purely voluntary basis.
- 1.8** We are grateful for the feedback received. We have decided to proceed with the policy proposals as outlined in CP14/12.

What do you need to do next?

- 1.9** From 7 November 2014, the requirement in the DTRs to publish interim management statements will be removed. The change will affect issuers of shares admitted to trading on a regulated market where the UK acts as home Member State and the FCA's DTRs apply. After this date, issuers may continue to publish interim management statements (or quarterly financial reports) on a voluntary basis, if they so choose.

What will we do?

- 1.10** The new DTRs will be effective on 7 November 2014 supporting the Government's commitment to implement this change early.

2. Summary of feedback and our responses

- 2.1** In this Chapter we outline the feedback received to the proposals made in CP14/12 and set out our responses.

Feedback on the questions asked in CP14/12

- 2.2** In CP14/12 we asked four questions.
- 1.** Do you agree with the proposal to remove DTR4.3, DTR4.4.6R and DTR6.3.5R(3)(c) and amend the Glossary?
 - 2.** Do you agree with the proposal to amend DTR4.4.1R, 4.4.2R, 4.4.5R, 4.4.7R and 4.4.8R to remove references to interim management statements?
 - 3.** Do you agree with the proposal to amend DTR8 Annex 2, DTR TP 1(19) and LR17.3.6G to remove references to interim management statements?
 - 4.** Do you agree with our analysis that the removal of the requirement to publish interim management statements will not have significant costs for issuers?

Positive feedback

- 2.3** The majority of respondents supported the proposal for us to support the Government's commitment² to remove the Transparency Directive's requirement to publish interim management statements early. However, several respondents suggested that we should encourage the continued voluntary publication of interim management statements, with one respondent advocating that large firms voluntarily move to best international practice with regard to quantitative quarterly reporting. Another suggested we urge companies to continue meaningful, timely communications through "integrated reporting" and one respondent recommended encouraging companies to make more use of ad-hoc regulatory announcements to publish information. Some respondents also suggested that investors are likely to continue to expect some form of quarterly reports and that there may now be a lack of consistency among issuers in reporting. One respondent suggested that we should implement this change as soon as possible to assist December year-end issuers.

² BIS made a commitment to the Select Committee on the Kay Review stating 'the Government is committed to removing mandatory quarterly reporting for UK companies and, following publication of the new Directive in the official journal, intends to implement the relevant sections of the revised Directive in the UK as soon as is practical.' (CP14/12, page 7)

Concerns raised

- 2.4** Two respondents did not support the EU decision to remove the Transparency Directive's requirement to publish interim management statements. One commented it is not always clear that preparing interim management statements represents a significant additional administrative burden over and above that which is performed for internal reporting purposes. They also challenged an assumption that quarterly reports do not add much value to investors. Another respondent believed there will be a loss of benefits to investors and the reporting vacuum will increase the burden of responsibility on management to ensure that issuers report all price-sensitive information as soon as possible. This respondent argued that stopping interim updates could lead to unscheduled trading statements, including profit warnings, that cause more share-price volatility than planned interim updates.
- 2.5** One respondent objected strongly to the removal of interim management statements and urged us to maintain the requirement.

Our response:

We have considered all comments raised regarding voluntary publication of interim management statements. We note the concern that if publishing interim management statements is voluntary, there could be inconsistency between issuers' practices. However, this arises from the change to the Transparency Directive itself rather than our proposal to implement it early.

Interim management statements which are published on a voluntary basis will not be treated as regulated information following implementation of the change to the Transparency Directive. However, the early removal of the requirement to publish interim management statements does not impact the need for issuers to consider the disclosure of price-sensitive information, and using an interim management statement to disclose this information would have been in breach of the DTRs where the issuer is required to disclose as soon as possible. Therefore, as suggested by a respondent, we take this opportunity to remind issuers of their obligations under DTR 2, which remain unaffected by our proposals.

Although interim management statements will no longer be treated as regulated information (within the scope of the DTRs), issuers will be able to continue to disseminate them to the market as regulatory information service announcements. We will not be providing any guidance on the publication of voluntary reports.

While we acknowledge comments that it is not always clear that preparing interim management statements represents a significant additional administrative burden, the EC conducted analysis on costs and consulted before making this change to the Transparency Directive. We are now required to implement this change and our proposal to implement early does not have any impact in this regard.

We will therefore implement our proposals as outlined in CP14/12.

Handbook deletions

- 2.6** Aside from wider comment detailed above, we only received one specific comment on the proposed rule changes where we were asked to delete DTR 4.2.7R and 4.2.8R and make three further consequential changes to DTR 4.2.3R, 4.2.10R and DTR 8 Annex 2. These rules all reference interim management reports which are different from interim management statements.
- 2.7** We did not receive any responses disagreeing with our analysis that the removal of the requirement to publish interim management statements will not have significant costs for issuers.

Our response:

We have revisited the FCA Handbook to ensure we have captured the relevant DTRs impacted by the removal of the requirement to publish interim management statements and we are satisfied that our original proposals outlined in CP14/12 make all the necessary amendments.

DTR 4.2.7R, 4.2.8R, 4.2.3R, 4.2.10R and DTR 8 Annex 2 all reference interim management reports which are unaffected by the removal of the requirement to publish interim management statements. Article 5(2)(b) of the Transparency Directive stipulates that half-yearly financial reports shall include an interim management report. This requirement has not been changed by the TDAD. Therefore, we will maintain all DTRs referencing interim management reports.

Annex 1

List of non-confidential respondents

Association of British Insurers

Association of Investment Companies

BAE Systems

BoA Merrill Lynch Global Research

British Property Federation

Capita Asset Management

CFA Society of the UK

Chartered Institute of Management Accountants

Deloitte

Friends Life

The Institute of Chartered Accountants in England and Wales

Institute of Chartered Accountants of Scotland

Investment Management Association

Investor Relations Society

London Stock Exchange

M&G Investments

Mr Trevor Morris - Private Investor

PricewaterhouseCoopers

Quoted Companies Alliance

Unilever

Appendix 1

Made rules (legal instrument)

DISCLOSURE AND TRANSPARENCY RULES (INTERIM MANAGEMENT STATEMENTS) (AMENDMENT) INSTRUMENT 2014

Powers exercised

- A. The Financial Conduct Authority makes this instrument in the exercise of the following powers and related provisions in the Financial Services and Markets Act 2000 (the “Act”):
- (1) section 73A (Part 6 Rules);
 - (2) section 89A (Transparency rules);
 - (3) section 89C (Provision of information by issuers of transferable securities);
 - (4) section 137A (General rule-making power);
 - (5) section 137T (General supplementary powers); and
 - (6) section 139A (Guidance).
- 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 7 November 2014.

Amendments to the FCA Handbook

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

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

Notes

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

Citation

- F. This instrument may be cited as the Disclosure and Transparency Rules (Interim Management Statements) (Amendment) Instrument 2014.

By order of the Board of the Financial Conduct Authority
6 November 2014

Annex A

Amendments to the Glossary of definitions

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

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

TD *Transparency Directive.*

Amend the following definition as shown.

<i>Transparency Directive</i>	<p>(1) <u>(except in <i>DTR</i> 4.4 and <i>DTR</i> 6.3.5R)</u> the European Parliament and Council Directive on the harmonisation of transparency requirements in relation to information about issuers whose securities are admitted to trading on a regulated market or through a comparable mechanism for the disclosure of information under national requirements of a Member State concerning the dissemination of information (No. 2004/109/EC).</p> <p>(2) <u>(in <i>DTR</i> 4.4 and <i>DTR</i> 6.3.5R) the European Parliament and Council Directive on the harmonisation of transparency requirements in relation to information about issuers whose securities are admitted to trading on a regulated market or through a comparable mechanism for the disclosure of information under national requirements of a Member State concerning the dissemination of information (No. 2004/109/EC) as amended by the Directive of the European Parliament and of the Council of 22 October 2013 (No. 2013/50/EU).</u></p>
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Annex B

Amendments to the Listing Rules sourcebook (LR)

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

17 Debt and debt-like securities: Standard listing

...

17.3 Requirements with continuing application

...

Annual accounts

...

17.3.6 G An *issuer* that meets the following criteria is not required to comply with LR 17.3.4R:

- (1) The *issuer* is an *issuer of asset backed securities* and would if it were a debt *issuer* to which DTR 4 applied be relieved of the obligations to draw up and publish annual, and half yearly financial reports ~~and interim management statements~~ in accordance with DTR 4.4.2R provided the *issuer* is not otherwise required to comply with any other requirement for the publication of annual reports and accounts.

...

Annex C

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

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

DTR 4.3 is deleted. The struck-through text is shown below for information only.

4.3 Interim management statements

Application

4.3.1 R ~~Subject to the exemptions set out in *DTR 4.4 (Exemptions)* this section applies to an *issuer*:~~

- ~~(1) whose *shares* are *admitted to trading*; and~~
- ~~(2) whose *Home State* is the *United Kingdom*.~~

Publication of interim management statements

4.3.2 R ~~An *issuer* must make public a statement by its management during the first six month period of the financial year and another statement by its management during the second six month period of the financial year.~~
 [~~Note: article 6(1) of the *TD*~~]

4.3.3 R ~~The statement required by *DTR 4.3.2R* must be made in a period between ten weeks after the beginning, and six weeks before, the end of the relevant six-month period.~~
 [~~Note: article 6(1) of the *TD*~~]

Content of interim management statements

4.3.4 R ~~The interim management statement must contain information that covers the period between the beginning of the relevant six-month period and the date of publication of the statement.~~
 [~~Note: article 6(1) of the *TD*~~]

4.3.5 R ~~The interim management statement must provide:~~

- ~~(1) an explanation of material events and transactions that have taken place during the relevant period and their impact on the financial position of the *issuer* and its *controlled undertakings*, and~~
- ~~(2) a general description of the financial position and performance of the *issuer* and its *controlled undertakings* during the relevant period.~~
 [~~Note: article 6(1) of the *TD*~~]

4.3.6 R ~~An *issuer* which publishes quarterly financial reports:~~

- (1) ~~in accordance with national legislation; or~~
- (2) ~~in accordance with the rules of the *regulated market*; or~~
- (3) ~~of its own initiative,~~

~~will be taken as satisfying the requirement to make public the statements required by *DTR 4.3.2R*.~~

~~[Note: article 6(2) of the *TD*]~~

4.4 Exemptions

Public sector issuers

- 4.4.1 R The *rules* on annual financial reports (*DTR 4.1*); and half-yearly financial reports (*DTR 4.2*) ~~and interim management statements (*DTR 4.3*)~~ do not apply to a state, a regional or local authority of a state, a public international body of which ~~are~~ at least one *EEA State* is a member, the ECB and *EEA States'* national central banks.

~~[Note: article 8(1)(a) of the *TD*]~~

Debt issuers

- 4.4.2 R The *rules* on annual financial reports in *DTR 4.1* (including *DTR 4.1.7R* (4)); and half-yearly financial reports (*DTR 4.2*) ~~and interim management statements (*DTR 4.3*)~~ do not apply to an *issuer* that issues exclusively *debt securities admitted to trading* the denomination per unit of which is at least 100,000 euros (or an equivalent amount).

~~[Note: article 8(1)(b) of the *TD* and article 45(1) of the *Audit Directive*]~~

...

Issuers of convertible securities

- 4.4.5 R The *rules* on half-yearly financial reports (*DTR 4.2*) ~~and interim management statements (*DTR 4.3*)~~ do not apply to an *issuer* of *transferable securities* convertible into *shares*.

Issuers of preference shares

- 4.4.6 R ~~The *rules* on interim management statements (*DTR 4.3*) do not apply to an *issuer* of *preference shares*. [deleted]~~

Issuers of depository receipts

- 4.4.7 R The *rules* on half-yearly financial reports (*DTR 4.2*) ~~and interim management statements (*DTR 4.3*)~~ do not apply to an *issuer* of depository

receipts.

Non-EEA States - Equivalence

4.4.8 R An *issuer* whose registered office is in a *non-EEA State* whose relevant laws are considered equivalent by the *FCA* is exempted from the *rules* on annual financial reports in *DTR 4.1* (other than *DTR 4.1.7R(4)* which continues to apply); and half-yearly financial reports (*DTR 4.2*) ~~and interim management statements (*DTR 4.3*)~~.

...

6.3 Dissemination of information

Application

...

6.3.5 R ...

- (3) The announcement relating to the publication of the following *regulated information* must include an indication of ~~which the~~ website on which the relevant documents are available:
 - (a) an annual financial report that is required by *DTR 4.1* to be made public; and
 - (b) a half-yearly financial report that is required by *DTR 4.2* to be made public; ~~and~~
 - (c) ~~an interim management statement that is required by *DTR 4.3* to be made public or an equivalent quarterly financial report.~~ [deleted]

[**Note:** article 12(3) of the *TD implementing directive*]

...

8 Primary Information Providers

...

8 Annex **Headline codes and categories**

2R

Headline code	Headline Category	Description
...		

High priority		
...		
IR	Half-year Report	Announcement of half-year/second quarter financial results
IMS	Interim Management Statement	A twice yearly statement of material events and transactions during the period
IOD	Issue of Debt	Notification of an issue of debentures, debenture or loan stock, bonds and notes, whether secured or unsecured
...		

...

TP 1 Disclosure and transparency rules

Transitional Provisions

(1)	(2) Material to which the Transitional provisions <u>provision</u> applies	(3)	(4) Transitional provision	(5) Transitional Provision: dates in force	(6) Handbook Provision: coming into force
...					
19	<i>DTR 4.1</i> , <u>and</u> <i>DTR 4.2</i> and <i>DTR 4.3</i>	R	The <i>rules</i> on annual financial reports (<i>DTR 4.1</i>); <u>and</u> half-yearly financial reports (<i>DTR 4.2</i>) and interim management statements (<i>DTR 4.3</i>) do not apply to <i>issuers</i> of exclusively <i>debt securities</i> the denomination per unit of which is at least 50,000 euros or in the case of <i>debt securities</i> denominated in a currency other than euro, the value of such denomination per unit is at the date of the issue equivalent to at least 50,000 euros which have already been <i>admitted to trading</i> on a <i>regulated market</i> in the EU before 31 December 2010. [Note: article 8.1 TD]	From 1 July 2012 for as long as the <i>debt securities</i> to which (19) applies are outstanding	1 July 2012
...					

Financial Conduct Authority



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