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Prospectus (Directive 2003/71/EC) Regulations 2005

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AMENDMENT OF EUROPEAN COMMUNITIES (STOCK EXCHANGE) REGULATIONS 1984

I, Micheál Martin, Minister for Enterprise, Trade and Employment, in exercise of the powers conferred on me by section 46 of the Investment Funds, Companies and Miscellaneous Provisions Act 2005 (No. 12 of 2005) and for the purpose of giving effect to Directive 2003/71/EC of the European Parliament and the Council of 4 November 2003 and for the other purposes mentioned in that section , hereby make the following regulations:

PART I

PRELIMINARY AND GENERAL

Citation

1. (1) These Regulations may be cited as the Prospectus (Directive 2003/71/EC) Regulations 2005.
- (2) These Regulations shall come into operation on 1 July 2005.
- (3) These Regulations shall be construed as one with the Companies Acts 1963 to 2005.

Interpretation

2. (1) In these Regulations, except where the context otherwise requires:

“Act of 2005” means the Investment Funds, Companies and Miscellaneous Provisions Act 2005;

“admission to trading” means admission of securities to trading on a regulated market and
“admission to trading in the State” means admission of securities to trading on a regulated
market situated or operating in the State;

“approval” means the positive act at the outcome of the scrutiny of the completeness of the
prospectus by the competent authority of the Home Member State including the consistency
of the information given and its comprehensibility and “approved” shall be construed
accordingly;

“approved stock exchange” has the same meaning as it has in the Stock Exchange Act 1995
(No. 9 of 1995);

“Bank” means the Central Bank and Financial Services Authority of Ireland;

“base prospectus” means a prospectus containing all relevant information as specified in
Regulations 19 and 20, and in case there is a supplement, Regulation 51, concerning the issuer
and the securities to be offered to the public or admitted to trading, and, at the choice of the
issuer, the final terms of the offering;

“collective investment undertaking other than the closed-end type” means unit trusts and
investment companies:

- (a) the object of which is the collective investment of capital provided by
the public and which operate on the principle of risk-spreading;

- (b) the units of which are, at the holder's request, repurchased or redeemed, directly or indirectly, out of the assets of the undertaking;

“Community act” means an act adopted by an institution of the European Communities;

“company” includes any body corporate;

“competent authority of a Home Member State” means-

- (a) where the State is the Home Member State, the Bank, or
- (b) where the State is a Host Member State, the central competent administrative authority designated as such under the national law of the Home Member State for the purposes of the Directive;

“contravention” includes, in relation to any provision, a failure to comply with that provision and “contravene” shall be construed accordingly;

“Court” means the High Court;

“credit institution” means an undertaking as defined by Article 1(1)(a) of Directive 2000/12/EC of the European Parliament and of the Council of 20 March 2000 relating to the taking up and pursuit of the business of credit institutions;

“Directive” means Directive 2003/71/EC of the European Parliament and of the Council of 4 November 2003;

“EEA Agreement” means the Agreement on the European Economic Area signed at Oporto on 2 May 1992, as adjusted by the Protocol signed at Brussels on 17 March 1993;

“EEA State” means a state which is a contracting party to the EEA Agreement;

“enactment” includes an instrument made under an enactment;

“equity securities” means shares and other transferable securities equivalent to shares in companies, as well as any other type of transferable securities giving the right to acquire any 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;

“EU prospectus law” has the same meaning as it has in the Act of 2005;

“functions” includes powers and duties and references to the performance of functions include, as respects the powers and duties, references to the exercise of the powers and the carrying out of the duties;

“Home Member State” means:

- (a) for all issuers incorporated or formed in a Member State save in respect of securities mentioned in paragraph (c) of this definition, the Member State where the issuer has its registered office,
- (b) for all issuers incorporated or formed in a state or territory which is not a Member State, save in respect of securities mentioned in paragraph (c) of this definition, the Member State where the securities are or were the subject of a public offer for the first time after 31 December 2003 or where the first application for admission to trading is or was made, at the choice of the issuer, the offeror or the person asking for admission, as the case may be, subject to a subsequent election by such an issuer if the Home Member State was not determined by its choice (but by the choice of an offeror or a person seeking admission to trading) pursuant to this paragraph,
- (c) for:
 - (i) any issues of non-equity securities whose denomination per unit amounts to at least €1,000,
 - (ii) any issues of non-equity securities in a currency other than euro, whose denomination per unit amounts to at least €1,000 or the nearest practical equivalent thereto, and

(iii) any issues of non-equity securities giving the right to acquire any transferable securities or to receive a cash amount, as a consequence of their being converted or the rights conferred by them being exercised, provided that the issuer of the non-equity securities is not the issuer of the underlying securities or an entity belonging to the group of the latter issuer,

the Member State where the issuer has its registered office, or where the securities were or are to be admitted to trading or where the securities are the subject of a public offer, at the choice of the relevant person;

“Host Member State” means the state where an offer to the public is made or admission to trading is sought, when different from the Home Member State;

“implementing measures” means any measures directly applicable in consequence of the Directive and, without prejudice to the generality of the foregoing, includes the Prospectus Regulation;

“in writing” includes by facsimile;

“Irish prospectus law” has the same meaning as it has in the Act of 2005;

“issuer” means a body corporate or other legal entity which issues or proposes to issue securities;

“market operator” means one or more persons who manage or operate the business of a regulated market (or who do both those things), and may be the regulated market itself;

“Member State” means a Member State of the European Union or an EEA State;

“Minister” means the Minister for Enterprise, Trade and Employment;

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

“offering programme” means a plan which would permit the issuance of non-equity securities, including warrants in any form, of a similar type or class (or both), in a continuous or repeated manner during a specified issuing period;

“offer of securities to the public” or “public offer” means a communication to persons in any form and by any means, presenting sufficient information on the terms of the offer and the securities to be offered, so as to enable an investor to decide to purchase or subscribe for those securities or apply to purchase or subscribe for those securities and this definition shall be construed as -

- (a) being also applicable to the placing of securities through financial intermediaries,

and

- (b) as not being applicable to trading on a regulated market or any other market operated by an approved stock exchange;

“person making an offer” (or “offeror”) means a body corporate or other legal entity or an individual which or who makes an offer of securities to the public;

“prospectus” means the document or documents required to be published for the purposes of a public offer or admission to trading in accordance with EU prospectus law and includes where the context admits any supplement thereto;

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

“prospectus rules” means the rules for the time being made by the Bank under section 51 of the Act of 2005;

“publication”, means publication in accordance with the applicable requirements of EU prospectus law;

“qualified investors” means-

- (a) legal entities which are authorised or regulated to operate in the financial markets, including: credit institutions, investment firms, other authorised or regulated financial institutions, insurance companies, collective investment schemes and their management companies, pension funds and their management companies and commodity dealers,
- (b) entities not so authorised or regulated as mentioned in paragraph (a) of this definition whose corporate purpose is solely to invest in securities,
- (c) national and regional governments, central banks, international and supranational institutions exercising public or quasi-public functions such as the International Monetary Fund, the European Central Bank, the European Investment Bank and other international organisations of a similar nature,
- (d) other legal entities which do not meet two of the three conditions specified in the definition of “small and medium-sized enterprises” in this Regulation,
- (e) natural persons and small and medium sized enterprises provided they are entered on the register maintained by the Bank pursuant to Regulation 3;

“regulated market” means a market as defined by Article 1(13) of Directive 93/22/EEC;

“relevant person” means an issuer, offeror or person seeking admission to trading as the case may be;

“securities” means transferable securities as defined by Article 1(4) of Directive 93/22/EEC with the exception of money market instruments as defined by Article 1(5) of Directive 93/22/EEC, having a maturity of less than 12 months;

“securities issued in a continuous or repeated manner” means issues on tap or at least two separate issues of securities of a similar type or class (or both) over a period of 12 months;

“small and medium-sized enterprises” means undertakings, which, according to their last annual or consolidated accounts, satisfy at least two of the following three conditions namely -

- (a) an average number of employees during the financial year of less than 250;

- (b) a total balance sheet not exceeding €43,000,000,

and

- (c) an annual net turnover not exceeding €50,000,000;

“summary” means a summary of a prospectus referred to in Regulation 21;

“supplement” means a supplement to a prospectus referred to in Regulation 51;

“units of a collective investment undertaking” means securities issued by a collective investment undertaking as representing the rights of the participants in such an undertaking over its assets;

“working day” means any day of the week (other than a Saturday or a Sunday) but does not include a public holiday (within the meaning of the Organisation of Working Time Act 1997) or a Good Friday.

(2) A word or expression that is used in these Regulations and is also used in the Directive shall have in these Regulations the same meaning as it has in the Directive unless the contrary intention appears.

(3) A reference in these Regulations -

- (a) to any other enactment or to a Directive or Regulation of the Council or Commission of the European Communities shall, unless the context otherwise requires, be construed as a reference to that enactment, Directive or Regulation as amended or extended by any other enactment or, as the case may be, Directive or Regulation of the Council or Commission of the European Communities, (including, in the case of an enactment, by a Regulation of these Regulations),
- (b) a reference to a Regulation or Part is a reference to a Regulation or Part of these Regulations, unless it is indicated that reference to some other provision is intended,

and

- (c) a reference to a paragraph, subparagraph or clause is a reference to a paragraph, subparagraph or clause of the provision in which the reference occurs, unless it is indicated that reference to some provision is intended.

(4) If the securities the subject of a public offer or admission to trading are of the type described in paragraph (c) of the definition of “Home Member State” in paragraph (1), the Home Member State shall be determined in accordance with that paragraph (c).

(5) In any case other than that referred to in paragraph (4), the Home Member State shall be determined (by reference to the issuer whose securities are being offered to the public or admitted to trading) in accordance with paragraph (a) or (b), as the case may be, of the definition of “Home Member State” in paragraph (1).

(6) For the purpose of the definition of “offer of securities to the public” in this Regulation “communication” shall include an invitation to treat.

(7) Where the total balance sheet amount of an undertaking falls to be determined for the purposes of the definition of “small and medium enterprises” in this Regulation and the accounts of the undertaking are denominated in a currency other than the Euro, the currency in which those accounts are stated shall be converted into the Euro at the rate prevailing at the end of the financial year to which they relate.

Register of Natural Persons and Small and Medium-Sized Enterprises as Qualified Investors

3. In Regulations 4 to 7 -

“registrant” means a natural person or small or medium sized enterprise whose name is for the time being entered in the register;

“register” means the register referred to in Regulation 4(1).

4. (1) The Bank shall establish and maintain a register in which there shall be entered the name of every natural person and every small and medium-sized enterprise who or which -

(a) applies in writing for inclusion on the register in accordance with the prospectus rules, and

(b) satisfies the conditions for inclusion on the register specified in paragraph (2) or (3), as appropriate.

(2) The conditions for inclusion on the register in respect of a natural person are as follows:

(a) he or she is resident in the State,

(b) he or she meets at least two of the following requirements -

- (i) he or she has carried out transactions of a significant size on securities markets at an average frequency of, at least, 10 per quarter over the 4 quarters immediately prior to the application being made,
- (ii) the value of his or her securities portfolio exceeds €0.5 million,
- (iii) he or she works or has worked for at least one year in the financial sector in a professional position which requires knowledge of securities investment.

(3) The condition for inclusion on the register in respect of a small and medium-sized enterprise is that it has its registered office in the State.

(4) For the purposes of paragraph (2)(a) the question as to whether a natural person is resident in the State shall be determined in accordance with subsections (8) (other than paragraph (b) thereof), (9) and (10) of section 48 of the Companies (Amendment)(No.2) Act 1999.

(5) For the purposes of paragraph (2)(b)(i) the question as to whether a transaction is of significant size shall be determined in accordance with the prospectus rules.

(6) For the purposes of paragraph (2)(b)(iii) “financial sector” includes the entities referred to in paragraph (a) of the definition of “qualified investors” in Regulation 2.

5. (1) The Bank may require a natural person or a small and medium-sized enterprise who or which applies for inclusion on the register to furnish such information or documents to the Bank as the Bank may reasonably specify in order to demonstrate that he or she or it satisfies the appropriate conditions referred to in Regulation 4.

(2) The Bank may require each registrant to demonstrate that he or she or it continues to satisfy the appropriate conditions referred to in Regulation 4, including, in the case of an enterprise, that it continues to fall within the definition of “small and medium-sized enterprises” in Regulation 2.

(3) For the purpose of the registrant’s demonstrating the matters referred to in paragraph (2), pursuant to a requirement made of the registrant thereunder, Regulation 4(2)(b)(i) shall apply as if for “the 4 quarters immediately prior to the application being made” in that provision there were substituted “the 4 quarters immediately prior to the requirement being made under Regulation 5(2)”.

(4) The Bank shall delete from the register any registrant that fails to demonstrate to the Bank’s reasonable satisfaction, pursuant to paragraph (2), that the registrant continues to satisfy the appropriate conditions referred to in Regulation 4, including, in the case of an enterprise, that it continues to fall within the definition of “small and medium-sized enterprises” in Regulation 2.

6. Without prejudice to the Bank's obligations under the Data Protection Acts 1988 to 2003, the Bank shall -

- (a) take due care in respect of the security of the information and data provided to it by a natural person or small and medium-sized enterprise applying for inclusion on the register,
- (b) take appropriate measures to establish the bona fides of an issuer or offeror seeking to have made available to him, her or it information included on the register pursuant to Regulation 7,
- (c) update promptly the information and data relating to a registrant on the register when instructed by a registrant to do so,
- (d) upon notification in writing at any time from a registrant that the registrant no longer wishes to have his, her or its name included on the register the Bank shall, as soon as practicable after the notification, delete the name from the register.

7. (1) Subject to Regulation 6 (b), the Bank shall make the register available to issuers and offerors on such conditions as it may reasonably specify provided such conditions are not inconsistent with these Regulations or the Directive.

(2) Issuers and offerors shall only use the information made available to them under paragraph (1) for the purposes of making or contemplating the making of an offer of securities to be addressed to qualified investors in the State.

(3) An issuer or offeror who or which fails to comply with paragraph (2) shall be guilty of an offence.

PART 2

SECURITIES OUTSIDE THE AMBIT OF THESE REGULATIONS

8. (1) These Regulations shall not apply to -

- (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 a central bank of a Member State,

- (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, with a view to their obtaining the means necessary to achieve their non-profit-making objectives,
- (f) non-equity securities issued in a continuous or repeated manner by credit institutions provided that these securities -
 - (i) are not subordinated, convertible or exchangeable,
 - (ii) do not give a right to subscribe to or acquire other types of securities and that they are not linked to a derivative instrument,
 - (iii) materialise reception of repayable deposits,
 - (iv) are covered by a deposit guarantee scheme under Directive 94/19/EC of the European Parliament and of the Council on deposit-guarantee schemes,
- (g) 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 this right being given up;

- (h) securities included in an offer where the offer expressly limits the amount of the total consideration for the offer to less than €2,500,000,
- (i) “bostadsobligationer” issued repeatedly by credit institutions in Sweden whose main purpose is to grant mortgage loans, provided that -
 - (i) the “bostadsobligationer” issued are of the same series,
 - (ii) the “bostadsobligationer” are issued on tap during a specified issuing period,
 - (iii) the terms and conditions of the “bostadsobligationer” are not changed during the issuing period,
 - (iv) the sums deriving from the issue of the said “bostadsobligationer”, in accordance with the articles of association of the issuer, are placed in assets which provide sufficient coverage for the liability deriving from securities,
- (j) non-equity securities issued in a continuous or repeated manner by credit institutions where the total consideration of the offer is less than €50,000,000, which limit shall be calculated over a period of 12 months, provided that these securities -
 - (i) are not subordinated, convertible or exchangeable,

- (ii) do not give a right to subscribe to or acquire other types of securities and that they are not linked to a derivative instrument.

(2) For the purposes of paragraph (1)(e) an association or body is recognised by a Member State if it has been established by, under or pursuant to the national legislation of the Member State.

(3) No offer of securities by an offeror or issuer shall be deemed to fall within paragraph (1)(h) unless the amount of the total consideration for the offer when aggregated with the consideration for all previous offers of securities of the same type in the issuer concerned made by the same offeror or issuer within the period of 12 months expiring on the date the offer is made is less than €2,500,000 (but excluding for the purposes of such aggregation any offer of securities made prior to the commencement of these Regulations).

(4) For the purposes of any other enactment, it is declared that paragraph (3) provides the means by which the limit specified by paragraph (1)(h) is calculated.

(5) Notwithstanding subparagraph (b), (d), (h), (i) or (j) of paragraph (1), where the State is the Home Member State a relevant person may draw up a prospectus in respect of the securities mentioned in that subparagraph and submit it to the Bank for approval in accordance with these Regulations and the other provisions of Irish prospectus law.

PART 3

EXEMPTIONS FROM THE OBLIGATION TO PUBLISH A PROSPECTUS

Excluded Offers

9. (1) The obligation to publish a prospectus under Regulation 12 shall not apply to an offer of securities in the State falling within one or more than one of the following subparagraphs -

- (a) an offer of securities addressed solely to qualified investors,
- (b) an offer of securities addressed to fewer than 100 persons, other than qualified investors,
- (c) an offer of securities addressed to investors where the minimum consideration payable pursuant to the offer is at least €50,000 per investor, for each separate offer,
- (d) an offer of securities whose denomination per unit amounts to at least €50,000,
- (e) an offer of securities where the offer expressly limits the amount of the total consideration for the offer to less than €100,000.

(2) Any subsequent resale of securities which were previously the subject of an offer described in paragraph (1) shall be regarded as a separate offer for the purposes of

determining whether it is an offer of securities to the public within the meaning of these Regulations.

(3) The obligation to publish a prospectus pursuant to Regulation 12 shall apply to the placement of securities through financial intermediaries, if none of subparagraphs (a) to (e) of paragraph (1) apply at the final placement.

(4) No offer of securities shall be deemed to come within paragraph (1)(e) unless the amount of the total consideration for the offer when aggregated with the consideration for all previous offers of securities of the same type in the issuer concerned made by the same offeror or issuer within the period of 12 months expiring on the date the offer is made is less than €100,000 (but excluding for the purpose of such aggregation any offer of securities made prior to the commencement of these Regulations).

10. (1) The obligation to publish a prospectus pursuant to Regulation 12 shall not apply to offers of securities to the public in the State of the following types of securities -

- (a) 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,
- (b) securities offered in connection with a takeover by means of an exchange offer, provided that a document is available containing information which is regarded by the Bank as being equivalent to that

of a prospectus, taking into account the requirements of any
Community act,

- (c) securities offered, allotted or to be allotted in connection with a merger, provided that a document is available containing information which is regarded by the Bank as being equivalent to that of a prospectus, taking into account the requirements of any Community act,
- (d) 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 a document is made available containing information on the number and nature of the shares and the reasons for and details of the offer,
- (e) securities offered, allotted or to be allotted to existing or former directors or employees by their employer or by an affiliated undertaking which in either case has securities already admitted to trading on a regulated market and 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; for the purposes of this subparagraph “affiliated undertaking” includes any parent undertaking or subsidiary undertaking of the employer or another subsidiary undertaking of that parent undertaking.

(2) The reference in paragraph (1)(e) to the offering or allotment of securities by an employer or an affiliated undertaking shall, in the case of such an offer or allotment that takes place for the purpose of an employees' share scheme or an employee share ownership trust, be construed as a reference to such offering or allotment, whether effected directly or indirectly by the employer or the affiliated undertaking.

(3) In paragraph (2) -

“employees' share scheme” means a scheme which is approved for the purposes of Chapter 1 of Part 17 of the Taxes Consolidation Act 1997 and Schedule 11 to that Act;

“employee share ownership trust” means a trust which is approved for the purposes of Chapter 2 of Part 17 of the Taxes Consolidation Act 1997 and Schedule 12 to that Act.

11. (1) The obligation to publish a prospectus under Regulation 13 shall not apply to the admission to trading in the State of the following types of securities -

- (a) shares representing, over a period of 12 months, less than 10 per cent of the number of shares of the same class already admitted to trading on the same regulated market,
- (b) shares issued in substitution for shares of the same class already admitted to trading on the same regulated market, if the issuing of such shares does not involve any increase in the issued capital,

- (c) securities offered in connection with a takeover by means of an exchange offer, provided that a document is available containing information which is regarded by the Bank as being equivalent to that of a prospectus, taking into account the requirements of any Community act,
- (d) securities offered, allotted or to be allotted in connection with a merger, provided that a document is available containing information which is regarded by the Bank as being equivalent to that of a prospectus, taking into account the requirements of any Community act,
- (e) 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 first-mentioned 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 ,
- (f) securities offered, allotted or to be allotted to existing or former directors or employees by their employer or an affiliated undertaking, which in either case has securities already admitted to trading on the same regulated market, provided that the first-mentioned securities are of the same class as the securities already admitted to trading on that

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; for the purposes of this subparagraph “affiliated undertaking” includes any parent undertaking or subsidiary undertaking of the employer or another subsidiary undertaking of that parent undertaking ,

(g) shares resulting from the conversion or exchange of other securities or from the exercise of the rights conferred by other securities, provided that the said shares are of the same class as the shares already admitted to trading on the same regulated market,

(h) securities already admitted to trading on another regulated market, if the following conditions are satisfied -

(i) that these 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 31 December 2003, the admission to trading on that other regulated market was associated with an approved prospectus made available to the public in conformity with EU prospectus law,

- (iii) that, unless subparagraph (ii) applies, for securities first admitted to listing after 30 June 1983, listing particulars were approved in accordance with the requirements of Directive 80/390/EEC or Directive 2001/34/EC,
- (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 under this exemption makes a summary available to the public in the manner specified in Regulation 45 and in a language accepted by the Bank,
- (vi) that subject to subparagraph (vii), the contents of the summary shall comply with Regulation 21 and shall state where the most recent prospectus can be obtained (or if no prospectus in respect of the securities has been recently published shall state that fact) and where the financial information published by the issuer pursuant to its ongoing disclosure obligations is available, and
- (vii) in circumstances where no prospectus has been recently published in respect of the securities, a warning similar to that referred to in Regulation 21(3) shall be required to be given and for the purpose of this clause the reference in Regulation 21(3) to a prospectus shall be construed as a reference to the most

recent information disclosed to the regulated market under its ongoing disclosure obligations.

(2) The reference in paragraph (1)(f) to the offering or allotment of securities by an employer or an affiliated undertaking shall, in the case of such an offer or allotment that takes place for the purpose of an employees' share scheme or an employee share ownership trust, be construed as a reference to such offering or allotment, whether effected directly or indirectly by the employer or the affiliated undertaking.

(3) In paragraph (2) "employees' share scheme" and "employee share ownership trust" shall be construed in accordance with Regulation 10(3).

PART 4

OBLIGATION TO PUBLISH A PROSPECTUS

12. Subject to Regulations 9 and 10, no offer of securities to the public shall be made in the State without publication of a prospectus in respect of the offer that -

- (a) in a case where the State is the Home Member State, has been approved by the Bank pursuant to these Regulations and any other provisions of Irish prospectus law, or

- (b) in a case where the State is a Host Member State, has been approved by the competent authority of the Home Member State pursuant to the applicable provisions of EU prospectus law.

13. Subject to Regulation 11, no securities shall be admitted to trading in the State without publication of a prospectus in respect of such admission of those securities that -

- (a) in a case where the State is the Home Member State, has been approved by the Bank pursuant to these Regulations and any other provisions of Irish prospectus law, or
- (b) in a case where the State is a Host Member State, has been approved by the competent authority of the Home Member State pursuant to the applicable provisions of EU prospectus law.

14. An issuer or offeror who fails to comply with Regulation 12 shall be guilty of an offence.

15. A person who has securities admitted to trading in contravention of Regulation 13 shall be guilty of an offence.

16. (1) A market operator that admits securities to trading in circumstances where it knows that that admission involves a contravention of Regulation 13 shall be guilty of an offence.

(2) A market operator in the State shall be entitled to rely on a copy of a notice of the decision of the Bank to approve a prospectus under Regulation 35, or, as the case may be, a copy of the certificate of approval from the competent authority of the Home Member State as evidence of compliance of the prospectus with EU prospectus law.

17. Without prejudice to its right to stipulate conditions for admission to trading and the production of evidence (whether in documentary form or otherwise) of compliance with those conditions following the commencement of these Regulations, a market operator in the State shall not require any person applying for admission of securities to trading on a regulated market to produce a prospectus, listing particulars or any other document equivalent thereto as a condition of admission of the securities to trading other than a prospectus drawn up and approved in compliance with the applicable provisions of EU prospectus law.

PART 5

DRAWING UP OF THE PROSPECTUS – CONTENT, FORMAT AND VALIDITY

18. The provisions of this Part shall apply to prospectuses relating to issuers or securities, as the case may be, in respect of which the State is the Home Member State.

Contents of Prospectus

19. (1) Without prejudice to Regulations 24 and 25, a prospectus shall contain all information which, according to the particular nature of the issuer and of the securities offered to the public or admitted to trading, is necessary to enable investors to make an informed assessment of -

(a) the assets and liabilities, financial position, profit and losses, and prospects of the issuer and of any guarantor, and

(b) the rights attaching to such securities.

(2) The information contained in the prospectus shall be consistent and presented in an easily analysable and comprehensible form.

(3) The prospectus shall contain information concerning the issuer and the securities to be offered to the public or to be admitted to trading.

(4) In the circumstances in which paragraph 4(b) of Schedule 2 to these Regulations applies, the prospectus shall also contain the information referred to in that paragraph.

Minimum Information

20. Without prejudice to the generality of Regulation 19 and subject to Regulation 26, the prospectus shall contain the minimum information required under the Prospectus Regulation.

Summary

21. (1) Subject to paragraph (4), a prospectus shall include a summary.

(2) The summary shall, in a brief manner and in non-technical language, convey the essential characteristics and risks associated with the issuer, any guarantor and the securities, in the language in which the prospectus was originally drawn up.

(3) The summary shall also contain a warning that -

(a) it should be read as an introduction to the prospectus,

(b) any decision to invest in the securities should be based on consideration of the prospectus as a whole by the investor,

- (c) where a claim relating to the information contained in a prospectus is brought before a court, the plaintiff investor might, under the national legislation of the Member States, have to bear the costs of translating the prospectus before the legal proceedings are initiated, and
- (d) civil liability attaches to those persons responsible under law for the contents of the prospectus but only if the summary is misleading, inaccurate or inconsistent when read together with the other parts of the prospectus.

(4) Where the prospectus relates to the admission to trading of non-equity securities having a denomination of at least €50,000, this Regulation shall not apply.

Single or Separate Documents

22. (1) Subject to Regulation 23, a prospectus may be drawn up as a single document or separate documents.

(2) A prospectus composed of separate documents shall divide the required information into -

- (a) a registration document containing the required information relating to the issuer,

- (b) a securities note containing the required information concerning the securities offered to the public or to be admitted to trading, and
- (c) a summary.

Base Prospectus

23. (1) In the following cases, at the election of a relevant person, a prospectus may consist of a base prospectus -

- (a) in a case where the securities are non-equity securities, including warrants in any form, issued under an offering programme,
- (b) in a case where the securities are non-equity securities issued in a continuous or repeated manner by credit institutions -
 - (i) if the sums deriving from the issue of those securities, under national legislation, are placed in assets which provide sufficient coverage for the liability deriving from securities until their maturity date, and
 - (ii) if, in the event of the insolvency of the related credit institution, the said sums are intended, as a priority, to repay the capital and interest falling due, without prejudice to the provisions of Directive 2001/24/EC of the European Parliament and of the Council of 4 April 2001 on the reorganisation and winding up of credit institutions.

(2) The information given in the base prospectus shall be supplemented, if necessary, in accordance with Regulation 51, with updated information on the issuer and on the securities to be offered to the public or to be admitted to trading.

(3) If the final terms of the offer are not included in either the base prospectus or a supplement, the final terms shall be filed with the Bank in accordance with the prospectus rules and published in accordance with Part 8 when each public offer is made as soon as practicable and, if possible, in advance of the beginning of the offer.

(4) The provisions of Regulation 24(1)(a) shall be applicable in any case coming within paragraph (3).

Omission of Information

24. (1) Where pursuant to Regulation 23 the final offer price or amount of securities (or both) to be subject to a public offer cannot be included in the prospectus -

- (a) the criteria or the conditions (or both) in accordance with which the above elements will be determined or, in the case of price, the maximum price, shall be disclosed in the prospectus, or
- (b) it shall be a term of the offer that acceptances of or applications for the purchase or subscription of securities (whether accepted by the -issuer or not) may be withdrawn or revoked during a period expiring not less

than 2 working days after a statement of the final offer price and amount of securities which will be offered to the public has been filed and published in accordance with Regulation 23(3).

25. The Bank may authorise the omission from a prospectus of information required under these Regulations or any other provision of Irish prospectus law, if it considers that -

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

26. Without prejudice to the requirement to give adequate information to investors, where, in exceptional cases, certain information required by any implementing measures to be

included in a prospectus would be inappropriate to the issuer's sphere of activity or to the legal form of the issuer or to the securities to which the prospectus relates, the prospectus may omit that required information but, unless there is no such equivalent information, shall contain information equivalent to that required information.

Incorporation by Reference

27. (1) Subject to paragraph (3) information may be incorporated in a prospectus by reference to one or more previously or simultaneously published documents that have been approved by the Bank or filed with it in accordance with the EU prospectus law, in particular pursuant to Part 11, or filed with the competent authority for the time being for the purposes of Titles IV and V of Directive 2001/34/EC and in accordance with those Titles.

(2) The information incorporated by reference in accordance with paragraph (1) shall be the latest available to the issuer.

(3) The summary shall not incorporate information by reference.

28. When information is incorporated by reference pursuant to Regulation 27, a cross-reference list must be provided in order to enable investors to identify easily specific items of information.

Prospectuses Consisting of Separate Documents

29. (1) A relevant person may apply to the Bank for approval of the registration document referred to in Regulation 22.

(2) A relevant person who has a registration document approved by the Bank under paragraph (1) shall only be required to draw up a securities note and a summary when its securities are offered to the public or to be admitted to trading.

(3) In the circumstances referred to in paragraph (2), the securities note shall provide information that would normally be provided in the registration document if there has been a material change or recent development which could affect investors' assessments since the latest updated registration document or any supplement was approved.

(4) In the circumstances referred to in paragraph (2), the securities note and summary shall be subject to separate approval under these Regulations and any other provisions of Irish prospectus law.

(5) Where a registration document has been filed but not approved in accordance with these Regulations and any other provisions of Irish prospectus law, the entire documentation, including updated information, shall be subject to approval in accordance with these Regulations and any other provisions of such law.

Validity of a Prospectus, Base Prospectus and Registration Document

30. (1) Provided it is updated by the issue of a supplement where required, the period of validity of a prospectus or a related document for the purposes of an offer of securities to the public or admission to trading shall be as follows -

- (a) subject to subparagraphs (b) to (d), an approved prospectus shall be valid for 12 months after its publication,
- (b) in the case of securities referred to in Regulation 23(1)(a), the base prospectus, previously filed and published, shall be valid for 12 months after its filing,
- (c) in the case of non-equity securities referred to in Regulation 23(1)(b), the base prospectus as previously filed and published shall be valid until no more of the securities concerned are issued in a continuous or repeated manner,
- (d) a registration document, as referred to in Regulation 22(2)(a), previously filed, shall be valid for the purposes of Regulation 29(2) for 12 months after its filing.

(2) The registration document accompanied by the securities note, updated if applicable in accordance with Regulation 29(3), and the summary shall, together, be considered to constitute a valid prospectus.

PART 6

RESPONSIBILITY ATTACHING TO THE PROSPECTUS

31. (1) The provisions of this Part shall govern responsibility in respect of the contents of a prospectus relating to issuers or securities, as the case may be, in respect of which the State is the Home Member State.

(2) For the purposes of these Regulations, responsibility for the information given in a prospectus attaches, subject to the provisions of that Schedule, in each of the cases specified in Schedule 1 to these Regulations to the persons specified in the relevant case, and references in these Regulations to responsible persons shall be construed accordingly.

32. (1) The responsible persons shall be clearly identified in a prospectus by their names and functions or, in the case of legal persons, their names and registered offices.

(2) A prospectus shall contain declarations by the responsible persons that, to the best of their knowledge:

(a) the information contained in the prospectus is in accordance with the facts, and

(b) that the prospectus makes no omission likely to affect its import save information if any omitted in accordance with Regulation 25 (a).

(3) The declarations referred to in paragraph (3) shall not be required to be signed but shall be deemed to have been made on publication of the prospectus.

(4) Neither this Regulation nor Regulation 31 prejudices section 41 of the Act of 2005.

PART 7

APPROVAL OF PROSPECTUS

Approval of the Prospectus

33. For the purposes of this Part -

“applicant” means a relevant person who applies to the Bank for approval;

“time limits” means the time limits provided for under Regulations 35 and 36.

34. The provisions of Regulations 35 to 39 shall apply in circumstances where the State is the Home Member State or where the function of approving of a prospectus has been transferred to the Bank in accordance with Regulation 41.

35. (1) An applicant shall submit a draft of the prospectus to the Bank and any other information and documents the Bank may require in accordance with the prospectus rules.

(2) Subject to paragraph (3), the Bank shall notify the applicant of its decision regarding the approval of the prospectus in writing within 10 working days after the submission of the draft prospectus in accordance with paragraph (1).

(3) The reference in paragraph (2) to 10 working days shall be construed as a reference to 20 working days if the public offer involves securities issued by an issuer which does not have any securities admitted to trading and which has not previously offered securities to the public.

(4) If the Bank fails to give a decision as to whether to approve a prospectus within the time limits, such failure shall not be deemed to constitute approval by it of the application.

36. (1) If the Bank finds, on reasonable grounds, that the documents submitted to it are incomplete or that supplementary information is needed, the time limits referred to in Regulation 35 shall apply only from the date on which such supplementary information is provided by the applicant.

(2) If the documents submitted to it are incomplete or supplementary information is needed the Bank shall, within 10 working days of the submission of the application, notify the applicant of that fact.

37. The Bank shall not approve a prospectus unless it is satisfied that the applicable requirements imposed by or under these Regulations and any other provisions of Irish prospectus law have been complied with.

38. (1) Upon the prospectus being approved, the applicant shall file the prospectus -

(a) with the Bank forthwith,

and

(b) if the issuer is a company registered under the Companies Acts 1963 to 2005, with the registrar of companies within 14 days after its publication in accordance with Part 8.

(2) An applicant who fails to comply with paragraph (1) shall be guilty of an offence.

Application to Court

39. (1) If the Bank refuses to approve a prospectus the applicant may apply to the Court in a summary manner to have such refusal reviewed.

(2) An application under paragraph (1) shall be made within 28 days after the date of notification of the Bank's decision under Regulation 35.

(3) On the hearing of an application under this Regulation, the Court shall confirm the decision of the Bank unless the applicant establishes to the Court's satisfaction that the applicant has complied with the procedures specified by these Regulations and any other provisions of Irish prospectus law in all material respects and that the prospectus meets the requirements of these Regulations and any other such provisions in all material respects.

(4) If the Court is satisfied that those procedures and requirements have been complied with in all material respects the Court may set aside the decision of the Bank and in such a case shall remit the matter to the Bank which shall thereupon reconsider the matter and make a further decision in accordance with those procedures and requirements.

Transfer to Another Competent Authority

40. (1) The Bank may, with the consent of the competent authority, transfer the function of approving a prospectus to the competent authority of another Member State.

(2) Any transfer under paragraph (1) shall be notified to the applicant within 3 working days after the date on which the decision by the Bank to make the transfer is made.

Transfer from Another Competent Authority

41. (1) In circumstances where the State is not the Home Member State, subject to the consent of the Bank, the competent authority of the Home Member State may transfer the function of approving a prospectus to the Bank in accordance with EU prospectus law.

(2) In the case of a transfer such as is referred to in paragraph (1) the relevant time limits shall apply from the date on which the decision by the competent authority of the Home Member State to transfer the function is made.

42. Where -

- (a) the Bank has transferred the function of approving a prospectus to the competent authority of another Member State under Regulation 40, or
- (b) in circumstances where the State is not the Home Member State, the competent authority of the Home Member State has transferred the function of approving a prospectus to the competent authority of another Member State under EU prospectus law,

then if the prospectus is approved by such competent authority under EU prospectus law the prospectus shall be deemed to have been approved for the purposes of these Regulations.

Liability of Bank and Other Bodies

43. Without prejudice to the generality of section 33AJ of the Central Bank Act 1942, approval of a prospectus by the Bank shall not be deemed to be or construed as a representation or warranty as to the solvency or credit - worthiness of the issuer or the truth or accuracy of the contents of the prospectus.

PART 8

Publication of Prospectus

44. (1) This Part shall apply to offers of securities to the public or admissions to trading in respect of which the State is the Home Member State.

(2) Upon a prospectus having been approved and filed in accordance with these Regulations, the relevant person shall:

(a) make the prospectus available to the public as soon as practicable and in any case, 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,

or

(b) in the case of an initial public offer of a class of shares not already admitted to trading that is to be admitted to trading for the first time, make the prospectus available to the public at the earlier of the time referred to in paragraph (a) or 6 working days before the end of the offer.

(3) A relevant person who fails to comply with paragraph (2) shall be guilty of an offence.

45. (1) Subject to paragraph (2), a prospectus shall be deemed available to the public in accordance with Regulation 44 when published in one of the following ways -

- (a) by insertion in one or more newspapers circulated throughout, or widely circulated in, the Member State or Member States in which the public offer is to be made or admission to trading is to be sought,
- (b) in a printed form to be made available, free of charge, to the public at the offices of the market on which the securities are being admitted to trading, or at the registered office of the issuer and at the offices of the financial intermediaries placing or selling the securities, including paying agents,
- (c) in an electronic form on the issuer's website and, if applicable, on the website of the financial intermediaries placing or selling the securities, including paying agents,
- (d) in an electronic form on the website of the regulated market or markets where the admission to trading is sought, or
- (e) in electronic form on the website of the Bank (if the Bank decides to provide a service of publishing prospectuses on its website).

(2) The issuer of equity securities (other than equity securities issued by a collective investment undertaking subject to these Regulations) which publishes a prospectus in respect of such securities in accordance with subparagraph (a) or (b) of paragraph (1) shall also publish the prospectus in an electronic form in accordance with subparagraph (c) of paragraph (1).

46. (1) In respect of a prospectus relating to equity securities (other than equity securities issued by a collective investment undertaking subject to these Regulations), the relevant person shall publish a notice stating how the prospectus has been made available pursuant to Regulation 45 and where it can be obtained by the public.

(2) A relevant person who fails to comply with paragraph (1) shall be guilty of an offence.

47. (1) In the case of a prospectus comprising several documents or incorporating information by reference (or both), the documents and information making up the prospectus may be published and circulated separately provided that the documents are made available to the public in accordance with the arrangements referred to in Regulation 45.

(2) Each such document shall indicate where the other documents constituting the full prospectus may be obtained.

48. The text and the format of the prospectus, and of any of the supplements published, shall at all times be identical to the original version approved by the Bank.

49. (1) Where the prospectus is made available by publication in electronic form pursuant to Regulation 45, a paper copy of it must nevertheless be delivered to each investor who purchases or subscribes for the securities involved (or intends to purchase or subscribes for such securities or bona fide contemplates such purchase or subscription) upon the investor's request and free of charge by the relevant person or the financial intermediaries placing or selling the securities.

(2) A relevant person or financial intermediary who fails to comply with a request under paragraph (1) shall be guilty of an offence (unless a prior request by the investor concerned in respect of the particular prospectus has already been complied with by another person referred to in that paragraph).

50. The Bank shall publish on its website over a period of 12 months all the prospectuses approved (or, alternatively, at its discretion, the list of prospectuses) approved by it in accordance with Part 7, including, if applicable, a hyperlink to the prospectus published on the website of the issuer, or on the website of the regulated market.

Supplements to the Prospectus

51. (1) A relevant person shall include in a supplement to the prospectus every significant new factor, material mistake or inaccuracy relating to the information included in a prospectus which is capable of affecting the assessment of the securities and which arises or is noted between the time when the prospectus is approved and the final closing of the offer to the public or, as the case may be, the time when trading on a regulated market begins.

(2) Such a supplement shall be the subject of the procedures under Part 7 in relation to approval of prospectuses in the same way as the original prospectus but those procedures shall, in general, be completed in a maximum of 7 working days and the supplement shall be published at least in the manner in which the original prospectus was published.

(3) The summary, and any translations thereof, shall also be supplemented, if necessary, to take account of the new information included in the supplement.

(4) Where there are significant new factors, material mistakes or inaccuracies as referred to in paragraph (1) of which the Bank becomes aware the Bank shall require the approval and publication of a supplement.

(5) In exercising its powers under paragraph (4) the Bank shall have regard to any significant new factors, material mistakes or inaccuracies brought to its attention by the competent authority of a Host Member State.

52. It shall be an implied term of all public offers to which this Part applies that persons who agree to purchase or subscribe for, or apply to purchase or subscribe for, the securities concerned before a supplement is published shall have the right, exercisable within a period not to be less than 2 working days after the publication of the supplement, to withdraw their applications or acceptances by notice in writing to the issuer or offeror, as the case may be.

PART 9

CROSS-BORDER OFFERS AND ADMISSIONS TO TRADING

53. In this Part “third country issuer” means an issuer incorporated or having its registered office in a state or territory which is not a Member State.

Community Scope of Approvals of Prospectuses

54. (1) Where the State is a Host Member State and without prejudice to Regulations 89 and 90, a prospectus approved by the competent authority of the Home Member State (including any prospectus drawn up under Article 1(3) of the Directive or the national legislation of the Home Member State implementing the said Article 1(3)) shall be valid for a public offer or an admission to trading in the State, provided that the Bank is notified in accordance with Regulation 55.

(2) The Bank shall not undertake any approval or administrative procedures relating to prospectuses falling within paragraph (1).

(3) If there are significant new factors, material mistakes or inaccuracies, as referred to in Regulation 51, arising since the approval of a prospectus falling within paragraph (1), the Bank may draw the attention of the competent authority of the Home Member State to the need for any new information to be included in a supplement to the prospectus.

55. The notification referred to in Regulation 54(1) shall consist of -

- (a) the certificate referred to in Regulation 57,
- (b) a copy of the prospectus, and
- (c) if required by the Bank, a translation of the summary of the prospectus into English or Irish (at the election of the relevant person).

56. (1) In circumstances where the State is the Home Member State and the Bank has approved a prospectus (including a prospectus submitted under Regulation 8(5)), the Bank shall, at the request of the relevant person or the person responsible for drawing up the prospectus, provide the competent authority of each Host Member State specified in the request with the certificate referred to in Regulation 57, together with a copy of the prospectus.

(2) A request of the Bank made under paragraph (1) shall be complied with by it within 3 working days after the making of the request or, if the request is submitted together with the draft prospectus, within 1 working day after the approval of the prospectus.

(3) If required by the competent authority of the Host Member State under EU prospectus law, the notification under paragraph (1) shall be accompanied by a translation of the summary produced under the responsibility of the relevant person or person responsible for drawing up the prospectus.

57. The certificate referred to in Regulations 55 and 56 is a certificate of approval attesting that the prospectus has been drawn up in accordance with the Directive and recording whether any information has been omitted from the prospectus in accordance with Article 8(2) and (3) of the Directive or the relevant provision of EU prospectus law implementing the said Article and, if so, the justification for such omission.

58. Regulations 54 to 57 shall apply to any supplement.

Issuers Incorporated in Third Countries

59. (1) This Regulation shall apply to third country issuers in respect of which the State is the Home Member State.

(2) The Bank may approve a prospectus pursuant to Part 7 for an offer of securities to the public or for admission to trading, drawn up in accordance with the legislation of the third country governing an issuer referred to in paragraph (1), provided that:

- (a) the prospectus has been drawn up in accordance with international standards set by international securities commission organisations, including the IOSCO disclosure standards, and
- (b) the information requirements, including information of a financial nature, are equivalent to the requirements under the Directive.

60. In the case of an offer of securities to the public or admission to trading of securities, issued by a third country issuer, in circumstances where the State is a Host Member State, the requirements of Regulations 54 and 55 and Part 10 shall apply.

Co-operation between Authorities

61. (1) The Bank shall -

- (a) co-operate with the competent authorities of other Member States designated under EU prospectus law whenever necessary for the purpose of performing its functions, and
- (b) render assistance to competent authorities of other Member States in the performance of their functions under EU prospectus law.

(2) In particular and without prejudice to the generality of paragraph (1), the Bank shall -

(a) exchange information and cooperate with competent authorities in other Member States when an issuer has more than one home competent authority because of its various classes of securities, or where the function of approving a prospectus has been transferred to the competent authority of another Member State pursuant to Regulation 40,

(b) closely cooperate with competent authorities in other Member State when requiring suspension or prohibition of trading for securities traded in various Member States in order to ensure (in so far as practicable) equivalent treatment between trading venues and protection of investors.

(3) Where appropriate, the competent authority of the Host Member State may request the assistance of the competent authority of the Home Member State from the stage at which a particular case is scrutinised for the purposes of approval in accordance with EU prospectus law, in particular as regards a new type or rare forms of securities.

(4) The competent authority of the Home Member State may request the competent authority of the Host Member State to furnish to it information in relation to any items specific to the relevant market.

62. Without prejudice to its powers under Regulations 87 and 88 and 95, the Bank may consult with market operators if, in the Bank's opinion, it is necessary to do so and, in particular, when deciding to suspend, or to request a regulated market to suspend or prohibit trading.

PART 10

USE OF LANGUAGES

Use of Languages

63. Where the State is the Home Member State the following provisions shall apply in respect of the language or languages in which the prospectus is to be drawn up and published:

- (a) where an offer of securities to the public is made or admission to trading is sought only in the State, the prospectus shall be drawn up and published in a language accepted by the Bank,
- (b) where an offer of securities to the public is made or admission to trading is sought in one or more Member States other than the State -
 - (i) the prospectus shall be drawn up and published in each Host Member State either in a language accepted by the competent

authority of the Host Member State or in a language customary in the sphere of international finance, at the election of the relevant person,

(ii) the competent authority of each Host Member State may only require that the summary be translated into the official language of the Host Member State,

(iii) for the purposes of the scrutiny of the prospectus by the Bank pursuant to Part 7, the prospectus shall be drawn up either in a language accepted by the Bank or in a language customary in the sphere of international finance, at the election of the relevant person,

(c) where an offer of securities to the public is made or admission to trading is sought in more than one Member State including the State -

(i) the prospectus shall be drawn up and published in a language accepted by the Bank,

(ii) the prospectus shall also be drawn up and published in each Host Member State in a language accepted by the competent authority of the Host Member State or in a language customary in the sphere of international finance, at the election of the relevant person, and

- (iii) the competent authority of each Host Member State may only require that the summary be translated into the official language of the Host Member State.

64. In circumstances where the State is the Host Member State the following provisions shall apply in relation to the language in which a prospectus is to be drawn up and published in the State -

- (a) where a public offer is made or admission to trading is sought in one or more Member States other than the Home Member State then -
 - (i) the prospectus shall be drawn up in a language accepted by the Bank or in a language customary in the sphere of international finance, at the election of the relevant person,
 - (ii) the Bank may only require that the summary be translated into Irish or English, at the election of the relevant person,
- (b) where the public offer is made or admission to trading is sought in more than one Member State including the Home Member State then -
 - (i) the prospectus shall be drawn up in a language accepted by the competent authority of the Home Member State,

- (ii) the prospectus shall also be drawn up in a language accepted by the Bank or in a language customary in the sphere of international finance, at the election of the relevant person,
- (iii) the Bank may only require that the summary be translated into Irish or English, at the election of the relevant person.

65. Whether the State is the Home Member State or a Host Member State where admission to trading on a regulated market of non-equity securities whose denomination per unit amounts to at least €50,000 is sought in one or more Member States the prospectus shall be drawn up either in a language accepted by the competent authority of the Home Member State and competent authorities of the Host Member States or in a language customary in the sphere of international finance, at the election of the relevant person.

66. The Bank shall, from time to time, publish in such manner as it thinks fit a notice specifying -

- (a) the languages accepted by it, for the time being, for the purpose of these Regulations, and
- (b) any other requirements, for the time being, of it for the purposes of this Part.

67. For the purposes of this Part “a language customary in the sphere of international finance” includes the English language.

PART 11

ANNUAL INFORMATION DOCUMENT

68. This Part shall apply to -

- (a) issuers in respect of which the State is the Home Member State, and
- (b) issuers, not falling within paragraph (a), of securities in respect of which the State is the Home Member State.

69. (1) Issuers which have securities admitted to trading shall at least annually draw up a document that contains or refers to all information that they have published or made available to the public over the preceding 12 months in one or more Member States and in third countries in compliance with their obligations under Community acts dealing with the regulation of securities, issuers of securities and securities markets.

(2) Without prejudice to the generality of paragraph (1), the document referred to in that paragraph shall refer to the information required pursuant to Community acts relating to companies, Directive 2001/34/EC and Regulation (EC) No 1606/2002 of the European

Parliament and of the Council of 19 July 2002 on the application of international accounting standards.

(3) An issuer which fails to comply with paragraph (1) shall be guilty of an offence.

70. (1) The document referred to in Regulation 69 shall be filed with the Bank in accordance with the prospectus rules and published in accordance with Article 27 of the Prospectus Regulation.

(2) Where that document refers to information, it shall state where the information can be obtained.

(3) An issuer which fails to comply with paragraph (1) shall be guilty of an offence.

71. Regulations 69 and 70 shall not apply to issuers whose only securities admitted to trading are non-equity securities the denomination per unit of which amounts to at least €50,000.

72. Issuers admitted to trading in the State in circumstances where the State is not the Home Member State shall file annual information documents within the meaning of Article 10 of the Directive with the competent authority of the Home Member State.

PART 12

ADVERTISEMENTS

73. This Part shall apply to advertisements relating to a public offer or an admission to trading in one or more Member States -

- (a) made in or from the State by or on behalf of any relevant person, or
- (b) made in or from any other Member State by or on behalf of any relevant person,

in connection with a public offer or an admission to trading in respect of which the State is the Home Member State.

74. (1) Subject to paragraph (2), an advertisement to which this Part applies shall comply with the principles set out in Schedule 2 to these Regulations.

(2) Paragraph 4 of Schedule 2 to these Regulations shall not apply to cases where a relevant person is obliged to draw up a prospectus pursuant to EU prospectus law (or not being so obliged nevertheless draws up a prospectus pursuant to Regulation 8 (5) or the corresponding provisions of the national legislation of the other Member State concerned implementing the Directive).

(3) An advertisement that complies with paragraph (1) shall not be considered as a prospectus for the purpose of these Regulations.

(4) A relevant person shall be guilty of an offence if an advertisement that fails to comply with paragraph (1) is made or issued in or from the State by or on behalf of the relevant person.

75. Without prejudice to any power exercisable by the Bank under any other enactment, the Bank may monitor and supervise compliance by relevant persons with the principles set out in Schedule 2 to these Regulations.

76. For the purpose of its function under Regulation 75, the Bank may give a direction to a relevant person to do or not to do such things as are necessary to ensure compliance with the principles set out in Schedule 2 to these Regulations.

77. (1) Without prejudice to the generality of Regulation 76, a direction under that Regulation may do all or any of the following:

(a) prohibit the issue of a specified advertisement,

- (b) require the relevant person to modify a specified advertisement or an advertisement of a specified description in a specified manner,
- (c) prohibit the issue by the person of any advertisements which are substantial repetitions of a specified advertisement,
- (d) require the relevant person to withdraw any specified advertisement or any advertisement of a specified description,
- (e) require the relevant person to include specified information in any advertisement to be published by the person or on person's behalf,
- (f) require the relevant person to arrange the publication of a correction of an advertisement which contravenes Regulation 74,
- (g) require the relevant person to arrange the publication, in a manner specified by the Bank, of the fact that an offence under Regulation 74 has been committed by the relevant person and that a fine or term of imprisonment, if any, has been imposed on the relevant person in respect of a conviction therefor.

(2) In this Regulation "specified" means specified in a direction under this Regulation.

(3) Where a direction has been given by the Bank under this Regulation the provisions of Regulation 88(4) to (13) shall, with any necessary modifications, apply to the direction.

(4) A direction under this Regulation may be given to any relevant person referred to in Regulation 73.

PART 13

COMPETENT AUTHORITY

Designation of Competent Authority

78. (1) The Bank is designated as the central competent administrative authority for the purposes of Article 21(1) of the Directive and shall be responsible for carrying out the obligations provided for in the Directive and for ensuring that the provisions adopted pursuant to the Directive are applied.

(2) The Bank shall be independent in the performance of its functions under these Regulations.

Delegation of functions

79. (1) The Bank may delegate to an approved stock exchange, subject to such conditions as the Bank specifies, any of the functions that it is obliged or authorised to perform under Irish prospectus law or under the Directive other than the following functions -

- (a) the approval of prospectuses and supplements pursuant to Part 7 (but not any act involving the scrutiny of prospectuses or supplements),
- (b) the issuing of a certificate referred to in Regulation 57,
- (c) functions under Regulations 40, 41, 51(2), 56(1), 59(2), 79, 85, 88, 89 and 90 or this Regulation,
- (d) Parts 15 and 16.

(2) Any person to whom functions are delegated under paragraph (1) shall have, by virtue of the delegation, all such powers as are necessary to perform those functions.

(3) Any delegation of functions shall be in writing and specify the functions to be performed and the conditions subject to which they are to be performed.

(4) The conditions referred to in paragraph (3) shall include a provision obliging the stock exchange to whom a function or functions concerned are delegated to act and be organised in such a manner as to avoid conflicts of interest and so that information obtained from performing the function is not used unfairly or to prevent competition.

(5) A delegation under this Regulation shall not prevent the performance by the Bank of the function delegated.

(6) Notwithstanding any delegation under this Regulation, the final responsibility for supervising compliance with the Directive and the applicable provisions of EU prospectus law and for approving prospectuses under these Regulations shall be with the Bank.

(7) The Bank shall notify the Minister of any such delegation of a function promptly and of the conditions subject to which it has been delegated.

(8) Following such notification, the Minister shall inform the Commission and the competent authorities of other Member States designated pursuant to the Directive of any arrangements entered into with regard to the functions under this Regulation, including the conditions subject to which such functions are delegated.

(9) Where a function is delegated pursuant to this Regulation, then nothing in the Stock Exchange Act 1995 shall prevent there being specified as a condition subject to which the function is to be performed a condition requiring the rules of the stock exchange concerned or an amendment thereof to be approved by the Bank in so far as they are relevant to the function delegated.

PART 14

POWERS OF COMPETENT AUTHORITY

Definitions

80. In this Part -

“authorised officer” means an authorised officer appointed under Regulation 85;

“person to whom these Regulations apply” means any relevant person or a market operator;

“records” means any book, document or any other written or printed material in any form including any information (including phone and data traffic records) stored, maintained or preserved by means of any mechanical or electronic device, whether or not stored, maintained or preserved in a legible form;

“relevant records” means records relating to the activities of persons to whom these Regulations apply;

“responsible authority” means: -

- (a) the Chief Executive of the Irish Financial Services Regulatory Authority, or
- (b) any person to whom the Chief Executive of that Authority has delegated responsibility for appointing authorised persons.

81. (1) The Bank shall have all the powers necessary for the performance of its functions under Irish prospectus law or the Directive.

(2) The powers provided for in this Part shall not be exercised in a manner or for a purpose inconsistent with the Directive or these Regulations.

82. (1) Following receipt of an application for approval of a prospectus the Bank (or any person to whom the Bank has delegated the function of scrutinising prospectuses under Regulation 79) shall have the power to:

- (a) require the relevant person to include in the prospectus supplementary information, if necessary for investor protection,
- (b) require the relevant person and the persons that control the relevant person to provide information and documents to the Bank or delegate,
- (c) require auditors and managers of the relevant person as well as financial intermediaries commissioned to carry out the offer to the public or ask for admission to trading, to provide information to the Bank or delegate.

(2) The Bank shall have the following powers (by means of giving a direction under Regulation 88 in that behalf) for the purpose of regulating public offers or admissions

to trading in respect of which it is the Home Member State or for the purposes specified in Regulation 90(1).

- (a) to suspend a public offer or admission to trading, for a maximum of 10 consecutive working days on any single occasion, if it has reasonable grounds for suspecting that the provisions of the Directive or of EU prospectus law have not been complied with as respects the offer or admission to trading;
- (b) to prohibit or suspend advertisements for a maximum of 10 consecutive working days on any single occasion if it has reasonable grounds for believing that the provisions of the Directive or of EU prospectus law have not been complied with as respects the advertisement;
- (c) to prohibit a public offer if it finds that the provisions of the Directive or of EU prospectus law have not been complied with as respects the offer to trading of the securities concerned, or if it has reasonable grounds for suspecting that they will not be complied with as respects the offer;
- (d) to suspend or ask the relevant regulated markets to suspend trading on a regulated market, for a maximum of 10 consecutive working days on any single occasion, if it has reasonable grounds for believing that the provisions of the Directive or of EU prospectus law have not been

complied with as respects the admission to trading of the securities concerned;

- (e) to prohibit trading on a regulated market if it finds that the provisions of the Directive or of EU prospectus law have not been complied with as respects the admission to trading of the securities concerned;
- (f) to disclose to public the fact a relevant person is failing to comply with its obligations under EU prospectus law.

83. Once the securities have been admitted to trading the Bank may (by means of giving a direction under Regulation 88 in that behalf):

- (a) require the issuer to disclose all material information which may have an effect on the assessment of the securities admitted to trading in order to ensure investor protection or the smooth operation of the market,
- (b) suspend or require the relevant regulated market to suspend the securities from trading if, in its opinion, the issuer's situation is such that trading would be detrimental to investors' interests,
- (c) ensure that issuers whose securities are traded on regulated markets comply with the obligations provided for in Articles 102 and 103 of Directive 2001/34/EC and that equivalent information is provided to

investors and equivalent treatment is granted by the issuer to all securities holders who are in the same position, in all Member States where the offer to the public is made or the securities are admitted to trading.

84. The powers of the Bank under this Part are without prejudice to the powers of the Bank under any other Part of these Regulations or any other enactment.

Power to appoint authorised officers

85. (1) A responsible authority may, in writing -

(a) authorise such and so many persons as the authority considers necessary to be authorised officers for the purposes of these Regulations, and

(b) revoke any such authorisation.

(2) An appointment under *paragraph (1)(a)* may be for a specified or unspecified period.

(3) Every authorised officer shall -

- (a) be furnished with a certificate of his or her appointment as an authorised officer, and
- (b) when exercising a power under these Regulations of an authorised officer, produce the certificate, together with some form of personal identification, if requested to do so by a person affected by the exercise of that power.

(4) An appointment under *paragraph (1)* of a person as an authorised officer ceases -

- (a) when the responsible authority concerned revokes the appointment,
- (b) the person dies or resigns from the appointment,
- (c) if the appointment is for a specified period, when the period ends,
- (d) if the person appointed is an officer of the Irish Financial Services Regulatory Authority, when the person ceases to be such an officer, or
- (e) if the person appointed is an officer of an approved stock exchange to which the Bank has delegated functions under *Regulation 79*, when the person ceases to be such an officer.

Powers of authorised officers

86. (1) An authorised officer may, for the purpose of carrying out an investigation under these Regulations, do all or any of the following -

- (a) at all reasonable times enter any premises at which there are reasonable grounds to believe that there are any relevant records,
- (b) search and inspect the premises referred to in *subparagraph (a)* and any relevant records on the premises,
- (c) secure for later inspection the premises or any part of the premises in which relevant records are kept or in which the officer has reasonable grounds for believing the relevant records are kept,
- (d) require any person to whom these Regulations apply to produce to the officer relevant records, and if the information is in a non-legible form, to reproduce it in a legible form or to give to the officer such information as the officer reasonably requires in relation to entries in the relevant records,
- (e) inspect and take copies of relevant records inspected or produced under this Regulation (including, in the case of information in a non-legible form, a copy of all or part of the information in a permanent legible form),

- (f) remove and retain any of the relevant records inspected or produced under this Regulation for such period as may be reasonable to facilitate further examination,
- (g) require a person to give to the officer information (including give information by way of a written report) that the officer reasonably requires in relation to activities covered by these Regulations and to produce to the officer any relevant records that the person has or has access to,
- (h) require a person by or on whose behalf data equipment is or has been used, or any person who has charge of, or is otherwise concerned with the operation of, the data equipment or any associated apparatus or material, to give the officer all reasonable assistance in relation thereto, and
- (i) require a person to explain entries in any relevant records.

(2) An authorised officer shall not, except with the consent of the occupier, enter a private dwelling (other than a part of the dwelling used as a place of work) unless the officer has obtained a warrant from a judge of the District Court.

(3) Where any person from whom production of a relevant record is required claims a lien thereon, the production of it shall be without prejudice to the lien.

(4) The requirement to produce any relevant record or report or to provide information or assistance under this Regulation extends to -

- (a) a liquidator or receiver of, or any person who is or has been an officer or employee or agent of, a person to whom these Regulations apply, or
- (b) any other person who appears to the Bank or the authorised officer to have the relevant record or report in his or her possession or under his or her control or the ability to provide information or assistance, as the case may be.

(5) An authorised officer may, if the officer considers it necessary, be accompanied by a member of the Garda Síochána or by another authorised officer when exercising a power under this Part.

(6) A person who obstructs or impedes an authorised officer in the exercise of his or her powers under this Regulation shall be guilty of an offence.

Warrants

87. (1) When an authorised officer in the exercise of the authorised officer's powers under *Regulation 86(1)* -

- (a) is prevented from entering any premises, or

- (b) believes that there are relevant records in a private dwelling,

the authorised officer or the responsible authority by whom the authorised officer was appointed may apply to a judge of the District Court for a warrant under this Regulation authorising the entry by the authorised officer into the premises or the private dwelling, as the case may be.

(2) If on an application under *paragraph (1)* a judge of the District Court is satisfied, on the information of the applicant, that the authorised officer concerned -

- (a) has been prevented from entering any premises, or
- (b) has reasonable grounds for believing that there are relevant records in a private dwelling,

then the judge may issue a warrant under the judge's hand authorising the authorised officer, accompanied, if the judge considers it appropriate to so provide, by such number of members of the Garda Síochána as may be specified in the warrant, at any time within 4 weeks from the date of issue of the warrant, to enter, if need be by force, the premises or private dwelling and exercise any of the powers referred to in *Regulation 86(1)*.

Directions by the Bank

88. (1) The Bank may give one or more of the directions specified in paragraph (2) if the Bank considers it necessary to do so in order to -

- (a) perform its functions under these Regulations,
- (b) prevent any person from contravening or continuing to contravene a provision of these Regulations or any other provision of EU prospectus law, or
- (c) protect otherwise the interests of investors.

(2) Each of the following is a direction referred to in paragraph (1), namely a direction to a person -

- (a) to do or not to do anything that the Bank may require to be done or not to be done in exercise of its powers under Regulation 82 or 83,
- (b) not to dispose of or otherwise dissipate any assets or specified assets of the person or not to do any of those things save where specified conditions are complied with,
- (c) not to dispose of or otherwise dissipate any assets or specified assets the beneficial interest in which is vested in another person or persons or not to do any of those things save where specified conditions are complied with,

- (d) being a credit institution, not to make any payments from an account held with the institution by a specified person or persons save with the prior consent of the Bank,
- (e) not to accept, process or execute any subscription or order on behalf of a specified person,
- (f) not to carry on a business (whether on the person's behalf or another's behalf) in a specified manner or otherwise than in a specified manner,
- (g) not to engage in any practice that contravenes a provision of these Regulations or any other provision of EU prospectus law,
- (h) not to enter into transactions of a specified kind or not to enter into such transactions save to a specified extent or save where specified conditions are complied with,
- (i) not to publish specified information,
- (j) to publish or disseminate in a specified manner specified information in relation to a public offer, an admission to trading, a relevant person, securities or an advertisement to which Part 12 applies.

(3) A direction under this Regulation shall -

(a) be in writing,

and

(b) specify the date from which it shall have effect and the period for which it shall have effect (which shall not exceed 12 months).

(4) A person may apply to the court for, and the court may, if it considers it appropriate to do so, grant, an order setting aside or varying a direction under this Regulation.

(5) The Bank may, as respects a direction under this Regulation which, in its opinion has not been complied with or is unlikely to be complied with, (or, in the case of a direction referred to in paragraph (2)(b) or (c), irrespective of whether it is of that opinion) apply to the court in a summary manner for such order as may be appropriate by way of enforcement of the direction and the court may, as it thinks fit, on the hearing of the application, make or refuse to make an order providing for such relief.

(6) An application for an order under paragraph (5) shall be by motion, and the court when considering the motion may make such interim or interlocutory order as it considers appropriate.

(7) An application under paragraph (4) may not be made if the direction concerned has been the subject of an order granted under paragraph (5) (but without prejudice to the right of a person, the subject of an order granted under paragraph (5), to apply subsequently to the court to have the order varied or discharged).

(8) The court may direct the hearing together of applications made under paragraphs (4) and (5) that relate to the same direction.

(9) The court may, if it thinks fit, vary or discharge an order made under paragraph (5).

(10) An application under paragraph (4) or (5) may be heard otherwise than in public.

(11) The Bank may give a direction amending or revoking a direction given by it under this Regulation but this power may not be exercised -

(a) if an order under paragraph (5) is for the time being in force in relation to the direction,

or

(b) to extend the period specified in the direction for which it is to have effect.

(12) On the expiry of the period specified in a direction for which it is to have effect, the Bank may give another direction under this Regulation (if it considers it necessary to do so on the grounds specified in paragraph (1)), in like or different terms, to the person concerned.

(13) The powers of the Bank under this Regulation are in addition to those conferred on it by any other enactment to give directions or impose conditions or requirements.

Precautionary Measures

89. In circumstances where the State is a Host Member State and where the Bank finds or has grounds for suspecting -

- (a) a relevant person or a financial institution in charge of a public offer has contravened a provision of these Regulations or another provision of EU prospectus law, or
- (b) there has been a failure by the issuer or offeror to comply with an obligation falling on the issuer or offeror by reason of the fact that the securities are admitted to trading,

it shall refer those findings or the fact of those grounds' existence to the competent authority of the Home Member State.

90. (1) If, despite the measures taken by the competent authority of the Home Member State in response to a referral of matters under Regulation 89 by the Bank to it (whether because those measures are inadequate or otherwise) the contravention or failure to comply

referred to in that Regulation still persists, the Bank, after informing the competent authority of the Home Member State, shall take all the appropriate measures within its power under these Regulations in order to protect investors.

(2) The Bank shall inform the Commission of any measures taken by it under paragraph (1) at the earliest opportunity.

Privilege

91. Nothing in these Regulations shall compel the disclosure by any person of any information which he or she would, in the opinion of the Court, be entitled to refuse to produce on the grounds of legal professional privilege or authorise the taking possession of any document containing such information which is in his or her possession.

PART 15

ADMINISTRATIVE SANCTIONS

Interpretation (Part 15)

92. (1) In this Part, unless the context otherwise requires -

“adverse assessment” means an assessment in which the assessor has decided that the assessee is committing or has committed a prescribed contravention;

“assessee” means the person the subject of an assessment;

“assessment” means an assessment referred to in *Regulation 93*;

“assessor” means an assessor appointed under *Regulation 93*;

“prescribed contravention” means a contravention of -

- (a) these Regulations,
- (b) any obligation imposed by the Bank pursuant to a power exercised under these Regulations, or
- (c) any other provision of EU prospectus law;

“qualifying holding” means -

- (a) a direct or indirect holding of shares or other interest in a regulated financial service provider which represents 10% or more of the capital or the voting rights, or
- (b) a direct or indirect holding of shares or other interest in a regulated financial service provider which represents less than 10% of the capital or voting rights but which, in the opinion of the Bank, makes it possible

to control or exercise a significant influence over the management of the regulated financial service provider;

“regulated financial service provider” has the same meaning as it has in section 2(1) of the Central Bank Act 1942 (No. 22 of 1942) as amended by section 2(g) of the Central Bank and Financial Services Authority of Ireland Act 2004 (No. 21 of 2004);

“sanction” means any sanction referred to in any of *paragraphs (a) to (f) of Regulation 99*;

“specified sanctions”, in relation to an adverse assessment, means the sanction or sanctions referred to in *Regulation 93(8)* which may be imposed on the assessee.

(2) The provisions of this Part are made for the purposes of enabling the imposition of administrative sanctions.

Bank may appoint assessor.

93. (1) Where the Bank has reason to suspect that a prescribed contravention is being committed or has been committed, the Bank may appoint an assessor (or, if the Bank thinks fit to do so, more than one assessor) to conduct an assessment as to -

- (a) whether or not the assessee is committing or has committed the contravention, and

- (b) if the assessor finds that the assessee is committing or has committed the contravention, the sanction or sanctions, if any, which the assessor considers are appropriate to be imposed on the assessee in respect of the contravention.

(2) The Bank may appoint an assessor who is not an officer, employee or official of the Bank and any such assessor so appointed is an agent of the Bank for the purpose of performing the functions of an assessor under this Part.

(3) The Bank shall provide the assessor with such administrative services (including technical and legal advice) as the Bank considers necessary to enable the assessor to perform the assessor's functions.

(4) The assessor shall, as soon as is practicable after the assessor's appointment as an assessor, give notice of the appointment to the assessee.

(5) The notice under *paragraph (4)* given to the assessee by the assessor shall contain -

- (a) a statement that the assessor is appointed by the Bank under this Regulation,
- (b) a statement in summary form of the grounds for conducting the assessment,

- (c) a statement that, within a reasonable time specified by the assessor in the notice, the assessee may -
 - (i) make submissions in writing to the assessor, and
 - (ii) request the assessor to be permitted to make oral submissions about the matters to which the notice relates, and
 - (d) a statement that the assessor shall conduct the assessment even if no submissions referred to in *subparagraph (c)* are made.
- (6) The assessor shall -
- (a) consider any submissions made by the assessee, and
 - (b) conduct such investigations relating to the assessment as the assessor considers appropriate before issuing the assessment.
- (7) The assessor shall issue the assessment to the Bank when the assessment is made.
- (8) Where the assessor decides that a prescribed contravention is being committed or has been committed, the assessor shall ensure that the assessment includes -

- (a) a statement of the grounds upon which the assessor made the assessment that the assessee is committing or has committed the contravention,
 - (b) a statement in summary form of the evidence upon which the assessment is based, and
 - (c) a statement of the sanction or sanctions, if any, which the assessor considers are appropriate to be imposed on the assessee in respect of the contravention.
- (9) The appointment of an assessor may be for a specified or unspecified period.

(10) Subject to *Regulation 100(2)*, the assessment shall constitute the decision of the Bank, and references in this Part to an adverse assessment shall be construed accordingly.

Revocation of appointment of assessor

94. (1) Where the Bank is satisfied that the assessor has contravened *paragraph (2)* or is incapacitated, the Bank may revoke the appointment of the assessor at any time.

(2) The assessor (including a person proposed to be appointed as an assessor) shall -

- (a) disclose to the Bank any material interest that the assessor may have in any matter that may arise during the assessment,
- (b) disclose to the Bank any actual or potential conflict of interest that the assessor may have in conducting an assessment,
- (c) not use any inside information (within the meaning of the Market Abuse (Directive 2003/6/EC) Regulations 2005) obtained during an assessment for any purpose other than the performance of the assessor's functions under this Part,
- (d) not engage in misconduct during the assessment,
- (e) perform the assessor's functions in accordance with the provisions of this Part, and
- (f) issue an assessment that is not contrary to law.

Power to require witnesses to appear and give evidence

95. (1) The assessor may by notice given in or outside the State to a person require the person to do one or more of the following -

- (a) appear before the assessor to give evidence (including give evidence on oath),

- (b) produce documents specified in the notice which are in the person's custody or control,
- (c) for the purposes of *subparagraph (a)* or *(b)*, attend before the assessor from day to day unless excused from attendance or released from further attendance by the assessor.

(2) The assessor may administer oaths for the purposes of the evidence referred to in *paragraph (1)(a)*.

(3) A witness at a hearing before the assessor has the same liabilities, privileges and immunities as a witness before the Court.

(4) Where a person ("person concerned") -

- (a) fails to comply with a notice under *paragraph (1)*,
- (b) threatens or insults the assessor or any witness or person required to attend before the assessor,
- (c) interrupts the proceedings of, or does not behave in an appropriate manner before, the assessor,
- (d) obstructs or attempts to obstruct the assessor,

- (e) discloses, or authorises the disclosure of, evidence given before the assessor or any of the contents of a document produced to the assessor that the assessor has instructed not to be published, or
- (f) does anything else that, if the assessor were a court of law having power to commit for contempt, would be contempt for that court,

then -

- (i) the assessor may apply to the Court for an order requiring the person concerned to do one or both of the following -
 - (I) to comply with the notice under *paragraph (1)*,
 - (II) to discontinue or not repeat the behaviour falling within any of the provisions of *subparagraphs (b) to (f)*, or behaviour of any similar kind, and
- (ii) the Court, if satisfied that there is no reasonable excuse for the failure to comply with the notice under *paragraph (1)* or for the behaviour concerned, as the case may be, grant the order and such other orders as it considers appropriate to ensure that the person concerned cooperates with the assessor.

Referral to Court on question of law

96. (1) The Bank or the assessor may (including at the request of the assessee) refer a question of law arising in the assessment to the Court for determination by the Court.

(2) Where a question of law is referred under *paragraph (1)* -

- (a) the assessor shall send to the Court all documents before him or her that are relevant to the matter in question, and
- (b) at the end of the proceedings in the Court in relation to the reference, the Court shall cause the documents to be returned to the assessor.

Assessee to be issued copy of any adverse assessment, etc.

97. (1) Where the assessment of the assessor is that the assessee is committing or has committed a prescribed contravention, the Bank shall -

- (a) issue the assessee with a copy of the adverse assessment (or, as the Bank thinks fit, so much of the adverse assessment as constitutes the statements referred to in *Regulation 93(8)*), and
- (b) advise the assessee that -

- (i) the assessee may appeal against the adverse assessment to the Court under *Regulation 98*, and
- (ii) the Bank may apply to the Court under *Regulation 102* for an order confirming the adverse assessment (including the specified sanctions).

(2) Where the assessment of the assessor is that the assessee is neither committing nor has committed a prescribed contravention, the Bank shall issue the assessee with a statement to that effect.

Right of appeal against adverse assessment (including specified sanctions)

98. (1) The assessee may appeal to the Court against the adverse assessment (including the specified sanctions) not later than 28 days after the Bank has complied with Regulation 97(1) in relation to the assessee or within such further period as the Court allows.

(2) An appeal under *paragraph (1)* may be heard otherwise than in public.

(3) The Court may, pending the hearing and determination of an appeal under *paragraph (1)*, make such interim or interlocutory orders as the Court considers necessary in the circumstances.

(4) The Court shall determine an appeal under *paragraph (1)* by making -

- (a) an order confirming, varying or setting aside the adverse assessment (including the specified sanctions), whether in whole or in part, or
- (b) an order remitting the case to be decided again by the Bank in accordance with the directions of the Court.

(5) The determination of the Court on the hearing of an appeal under *paragraph (1)* shall be final, except that a party to the appeal may apply to the Supreme Court to review the determination on a question of law.

(6) For the avoidance of doubt, it is declared that no variation of an adverse assessment under paragraph (4)(a) may provide for the imposition of a sanction on the assessee which is not a sanction referred to in paragraphs (a) to (f) of Regulation 99.

Sanctions that may be imposed by Bank

99. In the case of an adverse assessment, the Bank may impose on the assessee such of the following sanctions as are the specified sanctions -

- (a) a private caution or reprimand,
- (b) a public caution or reprimand,
- (c) subject to *Regulation 104(2)*, a direction to pay to the Bank a monetary penalty (but not exceeding €2,500,000 in any case),

- (d) a direction disqualifying the assessee from being concerned in the management of, or having a qualifying holding in, any regulated financial service provider for such time as is specified in the order,
- (e) if the assessee is continuing to commit a prescribed contravention, a direction ordering the assessee to cease committing the prescribed contravention,
- (f) a direction to pay to the Bank all or a specified part of the costs incurred by the Bank in investigating the matter to which the assessment relates and in holding the assessment (including any costs incurred by authorised officers).

Power to correct assessments

100. (1) Where the assessor or the Bank is satisfied that there is an obvious error in the text of an assessment, the assessor or the Bank, as the case may be, may alter the text of the assessment to remove the error.

(2) Where the text of an assessment is altered under *paragraph (1)*, the text as so altered shall be taken to be the decision of the Bank under *Regulation 93(10)*.

(3) In *paragraph (1)*, “obvious error”, in relation to the text of an assessment, includes -

- (a) a clerical or typographical error,
- (b) an error arising from an accidental slip or omission, or
- (c) a defect of form.

When specified sanctions take effect

101. (1) Where -

- (a) no appeal under *Regulation 98* against the adverse assessment is lodged with the Court within the period for lodging the appeal, or
- (b) an appeal under *Regulation 98* against the adverse assessment which has been lodged with the Court within the period for lodging the appeal is withdrawn or abandoned,

then the specified sanctions, as confirmed or varied in the order, if any, obtained under *Regulation 102(2)(a)*, shall take effect on the date of that order or such other date as the Court may specify in that order.

(2) Where an appeal under *Regulation 98* against the adverse assessment is lodged with the Court within the period for lodging the appeal, then the specified sanctions, as

confirmed or varied in the order, if any, obtained under *Regulation 98(4)(a)*, shall take effect on the date of that order or such other date as the Court may specify in that order.

Enforcement of adverse assessment (including specified sanctions)

102. (1) Where -

- (a) no appeal under *Regulation 98* against the adverse assessment is lodged with the Court within the period for lodging the appeal, or
- (b) an appeal under *Regulation 98* against the adverse assessment which has been lodged with the Court within the period for lodging the appeal is withdrawn or abandoned,

then the Bank may apply to the Court for an order confirming the adverse assessment (including the specified sanctions).

(2) The Court shall determine an application under *paragraph (1)* by making -

- (a) an order confirming, varying or setting aside the adverse assessment (including the specified sanctions), whether in whole or in part, or
- (b) an order remitting the case to be decided again by the Bank in accordance with the directions of the Court.

(3) The Court shall not hear an application under *paragraph (1)* unless -

(a) the assessee appears at the hearing as respondent to the application, or

(b) if the assessee does not so appear, the Court is satisfied that a copy of the application has been served on the assessee.

(4) An application under *paragraph (1)* may be heard otherwise than in public.

(5) The Court may, on an application under *paragraph (1)*, make such interim or interlocutory orders as the Court considers necessary in the circumstances.

(6) The determination of the Court on the hearing of an application under *paragraph (1)* shall be final, except that the Bank or the respondent, if any, may apply to the Supreme Court to review the determination on a question of law.

(7) For the avoidance of doubt, it is hereby declared that no variation of an adverse assessment under *paragraph (2)(a)* may provide for the imposition of a sanction on the assessee which is not a sanction referred to in *paragraphs (a) to (f)* of *Regulation 99*.

Publication of certain specified sanctions

103. The Bank shall publicly disclose the specified sanctions referred to in *paragraphs (c) to (f)* of *Regulation 99*, as confirmed or varied in the order concerned obtained under

Regulation 98(4)(a) or *102(2)(a)*, that are imposed on the assessee unless the Bank considers that the disclosure would -

- (a) seriously jeopardise the financial markets, or
- (b) cause disproportionate damage to the parties involved.

Person not liable to be penalised twice for same contravention

104. (1) Where -

- (a) a sanction referred to in *Regulation 99(c)* is to be imposed on the assessee by virtue of an order obtained under *Regulation 98(4)(a)* or *102(2)(a)*, and
- (b) the acts which constitute the prescribed contravention to which the sanction relates also constitute an offence under a law of the State,

then the assessee is not, in respect of those acts, liable to be prosecuted or punished for that offence under that law.

(2) A sanction referred to in *Regulation 99(c)* in respect of a prescribed contravention shall not be imposed on the assessee where -

- (a) the assessee has been found guilty or not guilty of having committed an offence under a provision of -
 - (i) these Regulations, or
 - (ii) *Part 5* of the Investment Funds, Companies and Miscellaneous Pensions 2005 Act, and

- (b) all or some of the acts constituting that offence also constitute the prescribed contravention.

Person not to be concerned in management of regulated financial service provider while disqualified

105. (1) A regulated financial service provider shall ensure that a person shall not be concerned in the management of, or have a qualifying holding in, the financial service provider while the person is subject to a sanction referred to in *Regulation 99(d)* that is in force.

(2) A regulated financial service provider who contravenes paragraph (1) shall be guilty of an offence.

Power of the Bank to resolve suspected contraventions, etc.

106. (1) Where the Bank has reason to suspect that a person (“relevant party”) is committing or has committed a prescribed contravention, it may enter into an agreement in writing with the relevant party to resolve the matter (including at any time before an assessment, if any, has been issued in respect of the relevant party).

(2) An agreement entered into under *paragraph (1)* -

- (a) is binding on the Bank and the relevant party, and

- (b) may include terms under which the relevant party accepts the imposition of sanctions.

(3) An agreement entered into under *paragraph (1)* may be enforced by the Bank or the relevant party in a court of competent jurisdiction.

PART 16

PENALTIES, GENERAL AND OTHER MISCELLANEOUS PROVISIONS

Certain Offences and Penalties generally.

107. (1) If the contravention in respect of which a person is convicted of an offence under these Regulations is continued after the conviction, the person shall be guilty of a further offence on every day on which the contravention continues.

(2) Where any offence is committed under these Regulations by a body corporate and is proved to have been committed with the consent, connivance or approval of or to have been attributable to the wilful neglect on the part of any person, being a director, manager, secretary or other officer of the body corporate or a person who was purporting to act in any such capacity, that person as well as the body corporate shall be guilty of an offence and is liable to be proceeded against and punished as if he or she was guilty of the first mentioned offence.

(3) A person who is guilty of -

- (a) an offence under these Regulations other than an offence referred to in subparagraph (b),

or

- (b) one or more further offences under paragraph (1), for each such offence,

shall be liable on summary conviction to a fine not exceeding €5,000 or imprisonment for a term not exceeding 12 months or both.

(4) Each of the following is an offence to which section 47 (penalties on indictment) of the Investment Funds, Companies and Miscellaneous Provisions Act 2005 applies -

- (a) an offence under *Regulation 14*,
- (b) an offence under *Regulation 15*,
- (c) an offence under paragraph (1) or (2) that relates to an offence referred to in subparagraph (a) or (b).

Annual Report of Bank

108. The Bank shall provide the Minister with a copy of the extract relating to the performance of its functions under these Regulations from its annual report to the Minister for Finance under section 30O of the Central Bank Act 1942.

Fees

109. Fees shall be payable pursuant to section 33K of the Central Bank Act 1942 in respect of the performance by the Bank of its functions under these Regulations.

Revocations and Amendments

110. (1) The following are revoked -

- (a) the European Communities (Stock Exchange) (Amendment) Regulations 1991 (S.I. No. 18 of 1991),
- (b) the European Communities (Transferable Securities and Stock Exchange) Regulations 1992 (S.I. No. 202 of 1992),
- (c) the European Communities (Stock Exchange) (Amendment) Regulations 1994 (S.I. No. 234 of 1994).

(2) The European Communities (Stock Exchange) Regulations 1984 (S.I. No. 282 of 1984) are amended as specified in Schedule 3 to these Regulations.

Transitional Provisions

111. Issuers which are incorporated in a third country and whose securities have already been admitted to trading on a regulated market prior to 31 December 2003 and who choose the State as their competent authority in accordance with these Regulations shall notify their decision in writing to the Bank by 31 December 2005.

112. Notwithstanding Regulation 12, credit institutions or other financial institutions equivalent to credit institutions within the meaning of Article 5 of Directive 89/298/EEC may continue to make public offers of debt securities or other transferable securities equivalent to debt securities issued in a continuous or repeated manner within the State up to 31 December 2008 without the need to publish a prospectus under these Regulations in circumstances where but for this Regulation they would have been obliged to publish a prospectus under these Regulations.

113. Regulations 111 and 112 are in addition to the provisions of Article 35 of the Prospectus Regulation (which also contains transitional provisions).

SCHEDULE 1

Responsible Persons

1. Subject to the provisions of this Schedule, responsibility for the information given in a prospectus attaches in the following cases.

Equity securities.

2. (1) This paragraph applies to a case in which the prospectus relates to equity securities (other than securities convertible into shares issued by the issuer of the underlying shares or by an entity belonging to the issuer's group).

(2) In a case to which this paragraph applies, each of the following persons is, subject to the other provisions of this Schedule, responsible for the prospectus:

(a) the issuer of the 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; and

(ii) each person who has authorised himself or herself 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;

- (c) each person who accepts, and is stated in the prospectus as accepting, responsibility for the prospectus;
- (d) if the case involves an offer of securities to the public:
 - (i) the offeror of the securities, 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 that body corporate when the prospectus is published;
- (e) if the case involves the admission to trading of securities:
 - (i) the person seeking admission, if this is not the issuer; and
 - (ii) if the person seeking admission is a body corporate and is not the issuer, each person who is a director of that body corporate when the prospectus is published; and
- (f) each person not falling within any of the preceding provisions of this subparagraph who has authorised the contents of the prospectus.

All other securities.

3. (1) This paragraph applies to a case in which the prospectus relates to securities that are not securities to which paragraph 2 applies.

(2) In a case to which this paragraph applies, each of the following persons is, subject to the other provisions of this Schedule, responsible for the prospectus:

- (a) the issuer of the securities;
- (b) each person who accepts, and is stated in the prospectus as accepting, responsibility for the prospectus;
- (c) if the case involves an offer of securities to the public, the offeror of the securities, if this is not the issuer;
- (d) if the case involves the admission to trading of securities, the person seeking 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 preceding provisions of this subparagraph who has authorised the contents of the prospectus.

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

4. An issuer is not responsible for a prospectus under paragraph 2(2)(a) or (b) or paragraph 3(2)(a) unless the issuer has made or authorised the offer of securities to the public or the application for admission to trading in relation to which the prospectus was published.

Publication without directors consent.

5. A person is not responsible for a prospectus under paragraph 2(2)(b)(i) if it is published without his or her knowledge or consent and on becoming aware of its publication he or she, as soon as practicable, gives reasonable public notice that it was published without his or her knowledge or consent.

Offeror not responsible in certain circumstances.

6. A person is not responsible for a prospectus under paragraph 2(2)(d) or paragraph 3(2)(c) if:

- (a) the issuer is responsible for the prospectus in accordance with this Schedule;
- (b) the prospectus was drawn up primarily by the issuer, or by one or more persons acting on behalf of the issuer; and
- (c) the offeror is making the offer in association with the issuer.

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

7. When accepting responsibility for a prospectus under -

- (a) paragraph 2(2)(c) or paragraph 3(2)(b), or
- (b) authorising the contents of a prospectus under paragraph 2(2)(f),

a person may state that her or she does 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:

- (i) only to the extent specified; and
- (ii) only if the material in question is included in (or substantially in) the form and context to which the person has agreed.

SCHEDULE 2

Advertising Principles

1. Advertisements shall state that a prospectus has been or will be published and indicate where investors are or will be able to obtain it.
2.
 - (a) Advertisements shall be clearly recognisable as such.
 - (b) The information contained in an advertisement shall not be inaccurate, or misleading.
 - (c) The information shall also be consistent with the information contained in the prospectus, if already published, or with the information required to be in the prospectus, if the prospectus is published afterwards.
3. In any case, all information concerning the offer to the public or the admission to trading disclosed in an oral or written form, even if not for advertising purposes, shall be consistent with that contained in the prospectus.
4.
 - (a) Where in connection with an offer of securities to which subparagraph (a), (b), (c) or (d) of Regulation 9(1) applies material information provided by an issuer or an offeror and addressed exclusively to some only of the investors to whom the offer is addressed, including without limitation information disclosed in the context of meetings relating to an offer of securities, shall be disclosed to all the investors to whom the offer is addressed.

- (b) In circumstances where a prospectus is required to be published under EU prospectus law, any information as referred to in subparagraph (a) provided by an issuer or offeror to an investor or group of investors and not disclosed to all the investors to whom the offer of securities is addressed shall be disclosed in the prospectus or in a supplement.

SCHEDULE 3

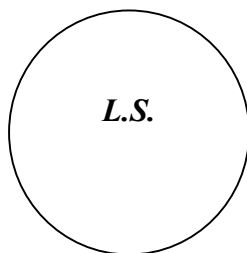
Amendment of European Communities (Stock Exchange) Regulations 1984

Item	Provision Affected	Amendment
1.	Regulation 2(1)	Delete “and the Listing Particulars directive” in the definition of “the directives”.
2.	Regulation 2(1)	Delete the definition of “the Listing Particulars directive”.
3.	Regulation 3(2)	(1) Delete “and” after paragraph (ii); (2) Substitute in paragraph (iii) “and,” for “and.”; (3) Insert the following paragraph after paragraph (iii): “(iv) are not contrary to or inconsistent with any provision of Irish prospectus law (within the meaning of the Investment Funds, Companies and Miscellaneous Provisions Act 2005).”.
4.	Regulation 4	Delete in its entirety.
5.	Regulation 6(1)	Delete “and Article 25 of the listing particulars directive”.
6.	Regulation 11(e)	Delete “or Article 24 of the Listing Particulars directive”.
7.	Regulation 12	Delete in its entirety.
8.	Regulation 13	Delete in its entirety.

Item	Provision Affected	Amendment
9.	Regulation 14	Delete “save as provided by Regulations 12 and 13 of these Regulations”.
10.	First Schedule	Delete the text of the Listing Particulars directive.
11.	Second Schedule	Delete items 6, 7, 8, 9 and 11.
12.	Third Schedule	Delete in its entirety.
13.	Fourth Schedule	Delete in its entirety.
14.	Fifth Schedule	Delete in its entirety.

GIVEN under my Official Seal,

This 30th day of June 2005



Micheál Martin

Minister for Enterprise, Trade and
Employment.

EXPLANATORY NOTE

(This note is not part of the instrument and does not purport to be a legal interpretation).

These Regulations along with Part 5 of the Investment Funds, Companies and Miscellaneous Provisions Act 2005 give effect to Directive 2003/71/EC 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 on a regulated market and amending Directive 2001/34/EC.

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