



STATUTORY INSTRUMENTS.

S.I. No. 366 of 2019

CENTRAL BANK (INVESTMENT MARKET CONDUCT) RULES 2019

S.I. No. ~~36~~³⁶⁶ of 2019

CENTRAL BANK (INVESTMENT MARKET CONDUCT) RULES 2019

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S.I. No. 366 of 2019

CENTRAL BANK (INVESTMENT MARKET CONDUCT) RULES 2019

In exercise of the powers conferred on the Central Bank of Ireland (the “Bank”) by sections 1363, 1370 (as amended by section 8 of the Finance (Certain European Union and Intergovernmental Obligations) Act 2016 (No. 13 of 2016)) and 1383 of the Companies Act 2014 (No. 38 of 2014), and having regard to the interests of investors and to the public interest, in the exercise of powers conferred on the Bank by Regulation 40(3) (as amended by Regulation 9 of the Transparency (Directive 2004/109/EC) (Amendment) Regulations 2017 (S.I. No. 336 of 2017)) of the Transparency (Directive 2004/109/EC) Regulations 2007 (S.I. No. 277 of 2007), the Bank hereby makes the following rules:

Part 1

PRELIMINARY AND GENERAL

Citation

1. These Rules may be cited as the Central Bank (Investment Market Conduct) Rules 2019.

Interpretation

2. (1) In these Rules –

“Act of 2014” means the Companies Act 2014 (No. 38 of 2014);

“Bank” means the Central Bank of Ireland;

“Commission Delegated Regulation (EU) 2019/980” means Commission Delegated Regulation (EU) 2019/980 of 14 March 2019 supplementing Regulation (EU) 2017/1129 of the European Parliament and of the Council as regards the format, content, scrutiny and approval of the prospectus to be published when securities are offered to the public or admitted to trading on a regulated market, and repealing Commission Regulation (EC) No 809/2004¹;

¹ OJ L 166, 21.6.2019, p. 26

“delegated act” means a delegated act, for the time being in force, adopted by the Commission of the European Union in accordance with Article 44 of the Prospectus Regulation;

“electronic meetings” means a meeting held by the use of any means of communication by which all the participants can hear and be heard at the same time;

“foreign language text” means text in a language other than the English or Irish language;

“Irish market abuse law” shall have the meaning ascribed to it in section 1365 of the Act of 2014;

“LEI” means a Legal Entity Identifier within the meaning of the Charter of the Regulatory Oversight Committee for the Global Legal Entity Identifier (LEI) System, done on the 5th November 2012;

“Market Abuse Regulation” or “MAR” means Regulation (EU) No 596/2014 of the European Parliament and of the Council of 16 April 2014 on market abuse (market abuse regulation) and repealing Directive 2003/6/EC of the European Parliament and of the Council and Commission Directives 2003/124/EC, 2003/125/EC and 2004/72/EC²;

“Non-Irish issuer” means an issuer whose shares are admitted to trading on a regulated market and whose home Member State is the State, that is not a body corporate incorporated under the laws of the State;

“Prospectus Regulation” means Regulation (EU) 2017/1129 of the European Parliament and of the Council of 14 June 2017 on the prospectus to be published when securities are offered to the public or admitted to trading on a regulated market, and repealing Directive 2003/71/EC³;

“Regulations of 2019” means European Union (Prospectus) Regulations 2019 made by the Minister for Finance for the purpose of giving further effect to the Prospectus Regulation;

² OJ L 173 12.6.2014, p. 1

³ OJ L 168, 30.6.2017, p. 12

“Regulation 17 financial instrument” means a financial instrument that satisfies the conditions of Regulation 17(1)(a) or (b) of the Transparency Regulations;

“RIS” means –

- (a) for the purposes of Part 2 of these Rules, a RIS that is provided by or approved for use by the regulated market on which the relevant securities are admitted to trading or in respect of which a request for admission to trading on such a regulated market has been made, and
- (b) for the purposes of Part 3 of these Rules, a RIS within the meaning referred to in paragraph (a) of this definition with the substitution of ‘trading venue’ for ‘regulated market’, and ‘financial instruments’ for ‘securities’, where it occurs in that paragraph;

“trading day” means a day referred to in the calendar of trading days specified on the website of the Bank;

“transparency (regulated markets) law” shall have the meaning ascribed to it in section 1379 of the Companies Act 2014;

“Transparency Regulations” means Transparency (Directive 2004/109/EC) Regulations 2007 (S.I. No. 277 of 2007);

“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) Except where otherwise stated -

- (a) words and expressions that are used in Part 2 shall have the same meaning as they have in transparency (regulated markets) law,
- (b) words and expressions that are used in Part 3 shall have the same meaning as they have in Irish market abuse law, and
- (c) words and expressions that are used in Part 4 shall have the same meaning as they have in the Prospectus Regulation, delegated acts and the Regulations of 2019.

Part 2

TRANSPARENCY REQUIREMENTS

Chapter 1

Application of Part and cooperation generally

Application of Part

3. Unless otherwise specified, this Part applies to persons on whom an obligation or obligations are imposed by transparency (regulated markets) law.

Obligation to cooperate

4. (1) A person to whom this Part applies shall -

- (a) following a request from the Bank, provide to the Bank within the time limit prescribed by the Bank, any information or explanation that the Bank may require to verify whether transparency (regulated markets) law has been adhered to and complied with,
- (b) be open and co-operative in their dealings with the Bank in respect of any request referred to in subparagraph (a),
- (c) attend and participate in such meetings as the Bank considers necessary in respect of any request referred to in subparagraph (a), and any information or explanations received in respect of any such request, and
- (d) notify the Bank as soon as the person becomes aware of any breach of transparency (regulated markets) law applicable to the person that may have occurred or any material information relating to, or any situations which have impacted or have the potential to impact on, the person's compliance or ability to comply with transparency (regulated markets) law.

(2) A person to whom this Part applies shall not provide the Bank, in respect of a request from the Bank, information or explanations for the purposes of transparency regulated (markets) law that it knows or ought to know to be false or misleading.

Notification of home Member State

5. (1) A disclosure made by an issuer to the Bank for the purposes of Regulation 2A(4)(b) of the Transparency Regulations shall be made by way of notification in such manner, in such form and with such accompanying information as may be specified on the website of the Bank from time to time.

(2) Where an issuer has made a disclosure of its home Member State to competent authorities for the purposes of another Member State's national law giving effect to Directive 2004/109/EC⁴ and, subsequent to that disclosure, the State becomes the host Member State of the issuer or the Member State where the issuer has its registered office, the issuer shall disclose to the Bank that issuer's home Member State and any change of its home Member State.

Chapter 2

Publication and dissemination of information

RIS to be used

6. (1) An issuer or person to whom Regulation 33 of the Transparency Regulations applies shall disseminate and make public regulated information by means of a RIS, and shall ensure that the RIS complies with Regulations 33(4) to 33(8) of the Transparency Regulations.

(2) Where an issuer or person referred to in paragraph (1) arranges for disseminating and making public of regulated information by sending it directly to a RIS, the issuer or person shall simultaneously notify the Bank that they have done so.

(3) Where the regulated information referred to in paragraphs (1) and (2) is a financial report to be made public pursuant to Regulation 4(2) or 6(2) of the Transparency Regulations and the financial report will be made public on the final day during which that report may be made public in accordance with that Regulation 4(2) or 6(2), the issuer or person concerned shall –

- (a) notify the Bank by 3.00pm on that day where that day is a working day or,
- (b) where that day is not a working day, notify the Bank by 3.00pm on the last prior working day,

to affirm that the relevant financial report will be disseminated directly to a RIS and that the financial report will be made public on the RIS on the final day.

Distribution when RIS is not available

7. (1) Without prejudice to any requirements under the Transparency Regulations, including prescribed timeframes, for the dissemination and making public of regulated information generally, an issuer or person to whom Regulation 33 of the Transparency Regulations applies that is required by these

⁴ OJ L 390, 31.12.2004, p. 38

Rules to disseminate and make public regulated information by means of a RIS when no RIS is open for business, shall without delay disseminate and make public the information through -

- (a) 2 news wire services or other media that ensure dissemination and making public of regulated information in accordance with transparency (regulated markets) law, and
- (b) a RIS, for release, as soon as one re-opens.

(2) An issuer that is aware in advance that paragraph (1) is likely to apply to that issuer shall inform the Bank by 3.00pm on the last prior working day of the manner in which it will comply with paragraph (1).

(3) For the purposes of paragraph (2), the Bank shall be informed by way of notification in such manner, in such form and with such accompanying information as may be specified on the website of the Bank from time to time.

Information not to be misleading etc. – communication to RIS

8. An issuer shall take all reasonable care to ensure that any regulated information that it communicates to a RIS is not misleading, false or deceptive and does not omit anything likely to affect the import of the information.

Chapter 3

Periodic Financial Information

Content of annual management report

9. The annual management report referred to in Regulation 4(3)(b) of the Transparency Regulations shall contain the information referred to in Schedule A to these Rules.

Half-yearly financial reports

10. (1) Subject to paragraph (2), the accounting policies and presentation applied to half-yearly figures shall be consistent with those applied in the latest published annual financial statements.

(2) Paragraph (1) shall not apply where -

- (a) the accounting policies and presentation are to be changed in the next annual financial statements following those annual financial statements referred to in paragraph (1), in which case the new accounting policies and presentation shall be applied in respect of the half-yearly figures and the changes and the reasons for the changes shall be disclosed in the half-yearly financial report, or
- (b) the Bank otherwise agrees.

Change in accounting date

11. (1) An issuer shall notify a RIS as soon as possible of the following:

- (a) any change in its accounting reference date;
- (b) the new accounting reference date.

(2) Subject to paragraph (3), an issuer whose shares are admitted to trading on a regulated market shall prepare and publish an interim financial report, subsequent to the half-yearly financial report required by Regulation 6 of the Transparency Regulations and in accordance with the requirements in the Transparency Regulations that apply to a half-yearly financial report required by that Regulation, where the effect of the change in the accounting reference date referred to in paragraph (1) is to extend the issuer's accounting period to more than 14 months.

(3) Where an issuer is subject to the requirement to prepare and publish an interim financial report referred to in paragraph (2), that interim financial report shall be prepared and published in respect of either -

- (a) the period up to the accounting reference date that was replaced by the new accounting reference date referred to in paragraph (1)(b), or
- (b) the period up to a date not more than 6 months prior to the new accounting reference date referred to in paragraph (1)(b).

Chapter 4

Ongoing Information about Major Shareholdings

Application of Chapter

12. This Chapter applies only in respect of issuers whose shares are admitted to trading on a regulated market and whose home Member State is the State.

Notification of acquisition or disposal of major shareholdings and voting rights

13. (1) Subject to paragraph (2), for the purposes of the application of the notification requirements relating to the notification of the acquisition or disposal of major shareholdings referred to in Part 5 of the Transparency Regulations, a person shall notify an issuer of the percentage of that person's voting rights if the percentage of voting rights which that person holds or is deemed to hold as shareholder or through a direct or indirect holding of Regulation 17 financial instruments, or a combination of such holdings, reaches, exceeds or falls below 3%, 4%, 5%, 6%, 7%, 8%, 9%, 10% and each 1% threshold thereafter up to 100%, as a result of either or both -

- (a) an acquisition or disposal of shares or Regulation 17 financial instruments or a combination of such holdings, or

- (b) events changing the breakdown of voting rights, on the basis of information disclosed by the issuer in accordance with Regulation 20 of the Transparency Regulations.

(2) The requirement to notify in accordance with paragraph (1) shall not apply in respect of a non-Irish issuer or an issuer that is a collective investment undertaking of the closed-end type.

Notification timeframes

14. (1) For the purposes of Regulation 21(3) of the Transparency Regulations -

- (a) in respect of notification to an issuer, in cases other than those referred to in subparagraph (b), notification shall be effected promptly but not later than 2 trading days, and
- (b) in respect of notification to an issuer that is a non-Irish issuer or a collective investment undertaking of the closed-end type, notification shall be effected promptly, but in any event not later than 4 trading days,

after the date on which the person making the notification -

- (i) learns, or having regard to the circumstances, should have learned of the acquisition or disposal or of the possibility of exercising voting rights, without regard to the date on which the acquisition, disposal or possibility of exercising voting rights takes effect, or
- (ii) is informed about the event referred to in Regulation 14(1) of the Transparency Regulations.

(2) Where, for the purposes of notification in accordance with paragraph (1)(i), a person is a party to a transaction or has instructed a transaction, the person shall be deemed to have knowledge of the acquisition, disposal or possibility to exercise voting rights no later than 2 trading days following the transaction in question.

Form of notification to issuer and filing with Bank

15. Where a person makes a notification to an issuer or files that notification with the Bank for the purposes of Part 5 of the Transparency Regulations or this Chapter, in relation to shares, that notification shall be made in such manner, in such form and with such accompanying information as may be specified on the website of the Bank from time to time.

Notification by market maker

16. Where a market maker makes a notification for the purposes of Regulation 14(6)(b) of the Transparency Regulations, that notification shall be

made in such manner, in such form and with such accompanying information as may be specified on the website of the Bank from time to time.

Notification by parent undertaking

17. (1) Where a parent undertaking makes a notification to the Bank for the purposes of Regulation 18(4) and (6) of the Transparency Regulations, that notification shall be made in such manner, in such form and with such accompanying information as may be specified on the website of the Bank from time to time.

(2) A parent undertaking shall notify the Bank where a notification that has been made to the Bank pursuant to Regulation 18(4) of the Transparency Regulations no longer applies.

Issuer to publish information contained in notification

18. (1) Subject to paragraph (2), an issuer to whom this Chapter applies shall, for the purposes of Regulation 21(9) of the Transparency Regulations, make public the information referred to in that Regulation promptly and in any event not later than the end of the trading day following receipt of the notification.

(2) An issuer to whom this Chapter applies that is a non-Irish issuer or a collective investment undertaking of the closed-end type shall make public the information referred to in Regulation 21(9) of the Transparency Regulations promptly, and in any event not later than the end of the third trading day following receipt of the notification.

Chapter 5

Continuing Obligations and Filing Regulated Information

Statement of dividends

19. (1) For the purposes of Regulation 27(2) of the Transparency Regulations, an issuer of shares whose shares are admitted to trading on a regulated market and whose home Member State is the State, other than a collective investment undertaking of the closed-end type, shall notify a RIS as soon as possible after the board of the issuer has approved any decision to pay or make any dividend or other distribution on, or to withhold any dividend on, shares admitted to trading on a regulated market.

(2) For the purposes of paragraph (1), the issuer shall give details of the following:

- (a) the exact net amount payable per share;
- (b) the payment date;

- (c) the record date, where applicable;
- (d) any foreign income dividend election, together with any income tax treated as paid at the lower rate and not repayable.

Notification relating to capital

20. (1) For the purposes of Regulation 27(2) of the Transparency Regulations, notification by an issuer of shares whose shares are admitted to trading on a regulated market and whose home Member State is the State, other than a collective investment undertaking of the closed-end type, of the results of any new issue of equity securities or preference shares, or of a public offering of existing shares, shall be made to a RIS as soon as possible.

(2) For the purposes of paragraph (1), where the equity securities or preference shares referred to in paragraph (1) are subject to an underwriting agreement, notification of the RIS may be delayed for up to 2 working days at the discretion of the issuer, subject to Irish market abuse law, or until the obligation by the underwriter to take or procure others to take shares is finally determined or lapses, whichever first occurs.

Proxy forms

21. (1) For the purposes of Regulation 25(5)(b) of the Transparency Regulations, and without prejudice to the application of the Act of 2014, an issuer of shares whose shares are admitted to trading on a regulated market and whose home Member State is the State, other than a collective investment undertaking of the closed-end type, shall –

- (a) send the proxy form with the notice convening a meeting of holders of shares to each person entitled to vote at the meeting,
- (b) ensure that the proxy form provides for three-way voting on all resolutions intended to be proposed, other than in respect of procedural resolutions,
- (c) ensure that the proxy form states that a shareholder is entitled to appoint a proxy of the shareholder's own choice and that the proxy form provides a space for insertion of the name of the proxy, and
- (d) ensure that the proxy form states that if the proxy form is returned without an indication as to how the proxy shall vote on any particular matter, the proxy will exercise his discretion as to whether, and if so how, he votes.

(2) For the purposes of paragraph (1) and subject to the application of the Act of 2014, where resolutions are proposed in respect of the re-election of retiring directors and the number of retiring directors standing for re-election exceeds 5, the proxy form may give shareholders the opportunity to vote for or against the re-election of the retiring directors as a whole, but shall also provide

for votes to be cast for or against the re-election of the retiring directors individually.

Filing of regulated information with Bank

22. For the purposes of Regulation 31 of the Transparency Regulations, an issuer or person to whom that Regulation applies shall file regulated information with the Bank in such manner, in such form, and with such accompanying information as may be specified on the website of the Bank from time to time.

Classification of information

23. Where an issuer or person to whom Regulation 31 of the Transparency Regulations applies files information with the Bank, in accordance with Regulation 31(2) of the Transparency Regulations, or makes regulated information available to the official mechanism in accordance with Regulation 31(3) of the Transparency Regulations, it shall notify the Bank and the official mechanism of the classification of the regulated information under Section B of the Annex to Commission Delegated Regulation (EU) 2016/1437 of 19 May 2016 supplementing Directive 2004/109/EC of the European Parliament and of the Council with regard to regulatory technical standards on access to regulated information at Union level⁵.

Issuer to obtain LEI - transparency

24. (1) For the purposes of transparency (regulated markets) law and without prejudice to any other requirement imposed on an issuer to obtain an LEI, an issuer whose home Member State is the State shall obtain an LEI.

(2) An issuer referred to in paragraph (1) shall obtain the LEI –

- (a) within 6 months from the date of the coming into operation of these Rules, or
- (b) within one month of the State becoming the issuer's home Member State where the 6 month period referred to in subparagraph (a) has either lapsed or less than one month remains in that period, but in any event before providing information to the official mechanism.

(3) An issuer referred to in paragraphs (1) and (2) shall –

- (a) notify the LEI to the Bank within the time period referred to in those paragraphs, in the form and manner specified on the website of the Bank from time to time, and
- (b) notify the LEI to the official mechanism when making regulated information available to the official mechanism in accordance with Regulation 31(3) of the Transparency Regulations.

⁵ OJ L 234, 31.8.2016, p. 1.

Chapter 6

Third Countries

Exemptions / Third country equivalence

25. (1) For the purposes of this Rule, the Bank may publish a list of third countries whose laws are considered equivalent by the Bank.

(2) The Bank may decide to exempt an issuer pursuant to Regulation 11(1), 24(1) or 30(1) of the Transparency Regulations, where the laws of the third country concerned are considered equivalent by the Bank for the purposes of that Regulation.

(3) For the purposes of paragraph (2), the Bank may decide to exempt an issuer from a provision of these Rules that corresponds to the exemption concerned.

(4) An issuer that intends to apply to the Bank for an exemption in accordance with the Transparency Regulations and paragraph (2) shall make that application in such manner, in such form and with such accompanying information as may be specified on the website of the Bank from time to time.

(5) The notification requirements referred to in Regulation 14(1) of the Transparency Regulations and Rule 13(1)(b) of these Rules shall apply in respect of the shares of an issuer that has its registered office in a third country as a result of events equivalent to those referred to in Regulation 14(2)(b) of the Transparency Regulations and information disclosed by that issuer in accordance with Regulation 24(4) of the Transparency Regulations.

Part 3

MARKET ABUSE REQUIREMENTS

Application of Part

26. (1) This Part applies to persons on whom an obligation or obligations are imposed by Irish market abuse law.

(2) In this Part, “issuer” means an issuer as defined in Article 3(21) of MAR and, for the purposes of this Part, includes an emission allowance market participant defined in Article 3(20) of MAR.

Obligation to cooperate

27. (1) A person to whom this Part applies shall –

- (a) following a request from the Bank, provide to the Bank within the time limit prescribed by the Bank, any information or explanation

that the Bank may require to verify whether Irish market abuse law has been adhered to and complied with,

- (b) be open and co-operative in their dealings with the Bank in respect of any request referred to in subparagraph (a),
- (c) attend and participate in such meetings as the Bank considers necessary in respect of any request referred to in subparagraph (a) and any information or explanations received in respect of any such request, and
- (d) notify the Bank as soon as the person becomes aware of any breach of Irish market abuse law applicable to the person that may have occurred or any material information relating to, or any situations which have impacted or have the potential to impact on, the person's compliance or ability to comply with Irish market abuse law.

(2) A person to whom this Part applies shall not provide the Bank, in respect of a request from the Bank, information or explanations for the purposes or Irish market abuse law that it knows or ought to know to be false or misleading.

Provision of information to Bank

28. (1) Where, for the purposes of Articles 16, 17, 18 or 19 of MAR, a person is obliged to notify or to provide information to the Bank, that person shall provide such information to the Bank using only the electronic means of transmission as may from time to time be specified by means of notification on the website of the Bank.

(2) Where the Bank requires, by means of notification on its website, a specific means of transmission in respect of information required to be provided to the Bank under MAR, persons who are required to notify or provide such information to the Bank shall use that means of transmission.

Reasonable care regarding announcements

29. An issuer shall exercise all reasonable care to ensure that any communication or announcement made by or on behalf of the issuer does not –

- (a) contain false, misleading or deceptive information, or
- (b) omit any material information which would cause such communication or announcement to be false, misleading or deceptive.

Distribution where RIS not available

30. Without prejudice to any requirements under Irish market abuse law including requirements relating to the dissemination and making public of inside information generally, an issuer that is required to announce inside information by means of a RIS when no RIS is open for business, and that has not done so

for the purposes of Rule 7, shall without delay disseminate and make public the information through –

- (a) 2 news wire services or other media that ensures dissemination and making public of regulated information in accordance with Irish market abuse law, and
- (b) a RIS for release as soon as one re-opens.

Dealing with media speculation or market rumour

31. An issuer shall assess whether a disclosure obligation arises pursuant to MAR in circumstances where there is media speculation or market rumour regarding that issuer.

Interim disclosure relating to unexpected and significant event

32. (1) Where an issuer is required to disclose inside information under Article 17(1) of MAR but is not yet in a position to provide full details of the underlying facts and believes that the information is likely to leak before those facts can be confirmed, the issuer shall issue an interim announcement.

- (2) The interim announcement referred to in paragraph (1) shall –
 - (a) detail as much of the subject matter as possible,
 - (b) set out the reasons why a more comprehensive announcement cannot be made, and
 - (c) provide an undertaking to announce further details without delay.

Issuer to obtain LEI – market abuse

33. (1) For the purposes of Irish market abuse law and without prejudice to any other requirement imposed on an issuer to obtain an LEI, an issuer shall, subject to paragraphs (2) and (3), obtain an LEI in any of the following circumstances where the Bank is competent authority of the trading venue concerned pursuant to the European Union (Markets in Financial Instruments) Regulations 2017 (S.I. No. 375 of 2017):

- (a) the issuer has requested or approved admission of its financial instruments to trading on a regulated market;
- (b) the issuer's financial instruments are only traded on an MTF or an OTF and the issuer has –
 - (i) approved trading of its financial instruments on an MTF or an OTF, or
 - (ii) requested admission to trading of its financial instruments on an MTF.

(2) An issuer referred to in paragraph (1) to whom these Rules apply on the date that these Rules come into operation shall obtain an LEI within the period of 6 months from the date of the coming into operation of these Rules.

(3) Where an issuer has obtained an LEI for the purposes of paragraph (1), the issuer shall notify that LEI to the trading venue concerned.

Part 4

PROSPECTUS REQUIREMENTS

Chapter 1

Application of Part and cooperation generally

Application of Part

34. (1) This Part applies to a person, including an issuer, offeror or person seeking admission to trading, on whom an obligation or obligations are imposed by the Prospectus Regulation, delegated acts, and the Regulations of 2019.

(2) Without prejudice to the generality of paragraph (1), this Part applies in respect of -

- (a) an offer of securities to the public, or an admission to trading of securities, in the State, which under Article 3 of the Prospectus Regulation requires the publication of a prospectus approved by the Bank;
- (b) an offer of securities to the public, or admission to trading of securities, referred to in Article 4 of the Prospectus Regulation, where an issuer, offeror or person asking for admission to trading on a regulated market elects to draw up a prospectus and the State is home Member State;
- (c) an offer of securities to the public, or an admission to trading of securities, where another competent authority has transferred, with the agreement of the Bank, the function of approving the prospectus to the Bank under Article 20(8) of the Prospectus Regulation.

(3) In this Part, “prospectus” includes, unless otherwise specified or the context otherwise requires, a base prospectus, registration document, securities note, summary, supplement and universal registration document.

Obligation to exercise care and cooperate

35. (1) A person to whom this Part applies shall –

- (a) exercise due care and attention in the preparation of a prospectus and when participating in the prospectus review process,
- (b) following a request from the Bank, provide to the Bank within the time limit prescribed by the Bank, any information or explanation that the Bank may require to verify whether the law referred to in Rule 34(1) has been adhered to and complied with,
- (c) be open and co-operative in their dealings with the Bank in respect of any request referred to in subparagraph (b),
- (d) attend and participate in such meetings, including electronic meetings, as the Bank considers necessary in respect of any request referred to in subparagraph (b) and any information or explanations received in respect of any such request,
- (e) maintain such records as are necessary to demonstrate compliance with the requirements of the law referred to in Rule 34(1),
- (f) notify the Bank as soon as the person becomes aware of any breach of the law referred to in Rule 34(1) applicable to the person that may have occurred or any material information relating to, or any situations which have impacted or have the potential to impact on, the person's compliance or ability to comply with the law referred to in Rule 34(1).

(2) A person to whom this Part applies shall not provide the Bank, in respect of a request from the Bank, information or explanations for the purposes of the law referred to in Rule 34(1) that it knows or ought to know to be false or misleading.

Submission of information to Bank

36. (1) A submission made to the Bank or a filing made with the Bank, for the purposes of the law referred to in Rule 34(1), shall be made in such manner, in such form and with such accompanying information as may be specified on the website of the Bank from time to time.

(2) A person shall ensure that any information that it submits to the Bank or files with the Bank for the purposes of the law referred to in Rule 34(1) is, to the best of that person's knowledge, accurate, in accordance with the facts and does not omit anything likely to affect the import of that information.

Responsibility for agents

37. A person shall ensure that an agent acting on its behalf for the purposes of activities to which the law referred to in Rule 34(1) relates, maintains written evidence of the agent's authority to act and shall ensure that the agent acts within the scope of that authority.

Chapter 2

*Display of certain statements**Display of statement on approval of prospectus*

38. A person shall ensure that the statements as regards approval of the prospectus by the Bank that are required to be included in the prospectus, in accordance with Commission Delegated Regulation (EU) 2019/980 are displayed on the cover page of the prospectus or in another position within that prospectus deemed prominent by the Bank.

Date of approval to be displayed on prospectus

39. For the purposes of publication of an approved prospectus pursuant to the Prospectus Regulation, an issuer, offeror or person asking for admission to trading on a regulated market shall date the prospectus as of the date of approval.

Form of statement clarifying scope of approval

40. (1) Where a person submits a document to the Bank for the purposes of the Prospectus Regulation that includes both a prospectus submitted for approval by the Bank and wording that suggests that the document may be used other than as a prospectus required for the purpose of admission to trading on a regulated market or for a public offer to which the Prospectus Regulation applies in the European Economic Area, the document shall include the following statement where referring to any approval by the Bank:

“Such approval relates only to [the securities — insert relevant details] which are to be admitted to trading on a regulated market for the purposes of Directive 2014/65/EU and/or which are to be offered to the public in any Member State of the European Economic Area.”

(2) For the purposes of paragraph (1), the wording shall be displayed on the cover page of the prospectus or in another position within that prospectus deemed prominent by the Bank.

Form of final terms statement clarifying scope of approval of base prospectus

41. Where a person includes in final terms filed with the Bank in accordance with Article 8 of the Prospectus Regulation a reference to either the approval by the Bank of the relevant base prospectus or the provision by the Bank of a certificate of approval attesting that the relevant base prospectus has been drawn up in accordance with the provisions of the law referred to in Rule 34(1), the

person shall ensure that the reference contains the applicable statement referred to in Schedule B to these Rules.

Form of prospectus statement regarding application for admission to trading and official listing

42. (1) A person shall ensure that in a prospectus that it submits to the Bank for approval relating to securities for which an application for admission to trading and admission to official listing will be made, the following statement is made:

“Application has been/will be made to [insert name of competent authority under Directive 2001/34/EC] for the securities [insert relevant details] to be admitted to the Official List and [insert name of relevant entity for admission to trading if different from first-mentioned competent authority] for the securities to be admitted to trading on [insert name of regulated market].”

(2) For the purposes of paragraph (1), the statement shall be displayed on the cover page of the prospectus or in another position within the prospectus deemed prominent by the Bank.

Form of prospectus statement where foreign language text used

43. A person shall include the applicable statement in Schedule C to these Rules in a prospectus submitted to the Bank, in accordance with the applicable circumstances provided for in that Schedule, where foreign language text is included with or within the text of that prospectus.

Chapter 3

Submission and filing of information – content and format in specific cases

Disclosure requirements for specialist issuers

44. Where an issuer’s activities fall into one of the categories listed in Annex 29 of Commission Delegated Regulation (EU) 2019/980, a person preparing a prospectus in relation to a public offer of that issuer’s securities or seeking admission to trading of that issuer’s securities shall comply with the disclosure recommendations, as applicable to that category, set out in paragraphs 128 to 145 of the ESMA update of the CESR recommendations on the consistent implementation of Commission Regulation (EC) No 809/2004 implementing the Prospectus Directive, as amended or replaced from time to time.

Submission of data in required format

45. For the purposes of the Prospectus Regulation, when submitting a draft prospectus to the Bank for approval or when filing final terms, an issuer, offeror or person asking for admission to trading on a regulated market shall submit data to the Bank, in such manner and form and to the extent specified on the Bank's website.

Representations regarding document incorporated by reference

46. (1) For the purposes of Article 19 of the Prospectus Regulation, when submitting or filing with the Bank a document containing information incorporated by reference, the issuer, offeror or person asking for admission to trading on a regulated market shall include a confirmation that at all times the text and format of that document will remain identical to the copy which has been submitted or filed with the Bank.

(2) An issuer, offeror or person asking for admission to trading on a regulated market shall ensure that attestations that have been made for the purpose of submitting or filing a document containing information which is incorporated by reference are not made either knowing them to be false or without having taken all reasonable steps to confirm that they were true.

(3) An issuer, offeror or person asking for admission to trading on a regulated market shall ensure that neither they nor any person acting on their behalf represent that a document is a document containing information incorporated by reference in an approved prospectus unless the text and format of that document is identical to the version that has been filed with or submitted to the Bank.

Certain documents to be in searchable pdf format

47. A person shall ensure that when submitting or filing, as applicable, the following documents with the Bank, those documents are submitted or filed in portable document format (pdf) that is in searchable electronic format that cannot be modified:

- (a) the final terms of the base prospectus or supplement of the type referred to in Article 8 of the Prospectus Regulation;
- (b) the final offer price and amount of securities notification referred to in Article 17 of the Prospectus Regulation;
- (c) the documents referred to in Article 19 of the Prospectus Regulation to be incorporated in a prospectus by reference;
- (d) the prospectus in final form for approval by the Bank under the Prospectus Regulation.

Form of request to omit certain information

48. A person that makes a request to the Bank to authorise the omission of certain information for the purpose of Article 18 of the Prospectus Regulation shall submit that request in writing and shall ensure that the request -

- (a) identifies the specific information concerned and the specific reasons for its omission,
- (b) states the reasons the person is of the opinion that one or more of the grounds set out in Article 18 of the Prospectus Regulation apply, and
- (c) warrants, where appropriate, that the information could not be deemed material to an investor's decision to invest in the relevant securities.

Chapter 4

Submission of information - ensuring compliance

Home Member State to be verified

49. (1) Prior to submission of a draft prospectus to the Bank in the course of the approval process under the Prospectus Regulation, an issuer, offeror or person asking for admission to trading on a regulated market shall conduct a review so as to be satisfied that the State is the home Member State.

(2) An issuer, offeror or person asking for admission to trading on a regulated market shall maintain appropriate documentary evidence of a review carried out for the purposes of paragraph (1) and shall provide such documentary evidence to the Bank on request.

Eligibility for simplified prospectus and EU Growth prospectus to be reviewed

50. (1) For the purposes of approval by the Bank with regard to a simplified prospectus under the simplified disclosure regime for secondary issuances referred to in Article 14 of the Prospectus Regulation, a person shall conduct a review to satisfy itself, prior to first submitting a draft prospectus to the Bank, that it meets the eligibility criteria referred to in Article 14(1) of the Prospectus Regulation.

(2) For the purposes of approval by the Bank with regard to an EU Growth prospectus referred to in Article 15 of the Prospectus Regulation, a person shall conduct a review to satisfy itself, prior to first submitting a draft prospectus to the Bank, that it meets the eligibility criteria referred to in Article 15(1) of the Prospectus Regulation.

(3) A person referred to in paragraph (1) or (2) shall maintain appropriate documentary evidence of a review carried out for the purposes of those paragraphs and shall provide such documentary evidence to the Bank on request.

Draft documents to be substantially complete in form

51. A person that submits a draft document to the Bank in the prospectus approval process under the Prospectus Regulation shall ensure that that draft document is in substantially complete form.

Subsequent drafts of documents to be marked for changes

52. A person that submits subsequent drafts of the prospectus, or any drafts of other documents, to the Bank in the prospectus approval process under the Prospectus Regulation, shall ensure that the draft of the prospectus or other document is marked to show changes made to that document since the document was last scrutinised by the Bank.

Bank to be notified of method of publication regarding prospectus

53. (1) On the day of approval of the prospectus, an issuer, offeror or person asking for admission to trading on a regulated market shall notify the Bank of the method of publication of the prospectus to be adopted for the purposes of complying with Article 21(2) and (3) of the Prospectus Regulation and shall provide the Bank with a hyperlink to the dedicated website section on which the prospectus will be published and on which it will remain publicly available in accordance with Article 21(7).

(2) A person shall comply with paragraph (1) by 5.30pm on the day of approval.

(3) During the period in which the prospectus shall remain publicly available in accordance with Article 21(7) of the Prospectus Regulation, an issuer, offeror or person asking for admission to trading on a regulated market shall notify the Bank of any change in the hyperlink provided to the Bank for the purposes of paragraph (1) and shall provide the Bank with that new hyperlink.

Chapter 5

*Other specific requirements relating to filing, notification etc.**Copy of advertisement*

54. (1) For the purposes of Article 22 of the Prospectus Regulation, a person that disseminates an advertisement shall retain a copy of that advertisement -

- (a) where the advertisement is disseminated in the State and,
- (b) where the advertisement is disseminated in a Member State other than the State, if the Bank is competent authority of the home Member State.

(2) For the purposes of paragraph (1), a copy of the advertisement shall be retained by or on behalf of the person that disseminates the advertisement for a period of 5 years after the date of first dissemination.

Public document under prospectus exemption to be filed with Bank

55. (1) A person who relies on an exemption referred to in Article 1(4)(f) or (g), or Article 1(5)(e) or (f) of the Prospectus Regulation, in respect of an offer of securities to the public in the State or an admission of securities to trading on a regulated market in the State, shall file with the Bank the document that is to be made available to the public in accordance with that exemption, and shall specify the exemption relied upon, on the date that that document is made available to the public.

(2) For the purposes of paragraph (1), a person filing such document with the Bank shall confirm to the Bank that the document meets the requirements of the law referred to in Rule 34(1) where such requirements apply to the document concerned.

Reliance on universal registration document to fulfil transparency (regulated markets) law requirements

56. Where, in accordance with Article 9(12) of the Prospectus Regulation, an issuer relies on a universal registration document as having fulfilled its obligation to publish an annual financial report or half-yearly financial report under transparency (regulated markets) law, the issuer shall –

- (a) disseminate the universal registration document in accordance with transparency (regulated markets) law and Part 2 of these Rules as they apply to that annual financial report or half-yearly financial report,
- (b) file the universal registration document with the Bank in accordance with transparency (regulated markets) law and Part 2 of these Rules, and
- (c) at the time of the filing referred to in paragraph (b), notify the Bank of the website on which the universal registration document has been published and provide the Bank with a hyperlink to that website.

Part 5

FINAL PROVISIONS

Revocations

57. (1) The following are revoked:

- (a) The rules, as amended, issued by the Bank in November 2014 under section 51 of the Investment Funds, Companies and Miscellaneous Provisions Act 2005 entitled “Prospectus Rules”;
- (b) The rules issued by the Bank in July 2016 under section 1370 of the Act of 2014 entitled “Market Abuse Rules”;
- (c) The rules, as amended, issued by the Bank on 4 November 2016 under Section 1383 of the Act of 2014 entitled “Transparency Rules”.

(2) The revocations referred to in paragraph (1) shall not:

- (a) affect any directions given, investigation undertaken, or disciplinary or enforcement action undertaken by the Bank or any other person, in respect of any matter in existence at, or before, the time of the revocation;
- (b) preclude the taking of any legal proceedings, or the undertaking of any investigation, or disciplinary or enforcement action by the Bank or any other person, in respect of any contravention of those rules or any misconduct which may have been committed before the commencement of the revocation.

SCHEDULE A

RULE 9

Information to be contained in management report referred to in Rule 9

1. The annual management report shall contain the following information:

- (1) A fair review of the development and performance of the issuer's business and of its position.

The fair review shall be, consistent with the size and complexity of the business, a balanced and comprehensive analysis of: (a) the development and performance of the issuer's business during the financial year, and (b) the position of the issuer's business at the end of that year.

The fair review shall further include, to the extent necessary for an understanding of the development, performance or position of the issuer, and including information relating to environmental matters and employee matters: (a) analysis using financial key performance indicators relevant to the particular business, and (b) where appropriate, analysis using non-financial key performance indicators.

The fair review shall include references to, and additional explanations of, amounts included in the issuer's annual financial statements, where appropriate.

- (2) A description of the principal risks and uncertainties facing the issuer.

2. The annual management report shall also give an indication of the following:

- (1) the issuer's likely future development;
- (2) activities in the field of research and development;

- (3) the information concerning acquisitions of own shares prescribed by Article 63(2) of Directive (EU) 2017/1132;
- (4) the existence of branches of the issuer;
- (5) in relation to the issuer's use of financial instruments and where material for the assessment of its assets, liabilities, financial position and profit or loss –
 - (a) the issuer's financial risk management objectives and policies, including its policy for hedging each major type of forecasted transaction for which hedge accounting is used, and
 - (b) the issuer's exposure to price risk, credit risk, liquidity risk and cash flow risk.

SCHEDULE B

RULE 41

Reference to approval by Bank

The statement referred to in Rule 41 shall state the following, as applicable:

(a) “The [base prospectus — insert details of relevant base prospectus] has been approved by the [Central Bank of Ireland or Central Bank (if so defined)], as competent authority under Regulation (EU) 2017/1129.

The [Central Bank of Ireland or Central Bank (if so defined)] has only approved the base prospectus as meeting the standards of completeness, comprehensibility and consistency imposed by Regulation (EU) 2017/1129.

Such approval should not be considered as an endorsement of the quality of the securities that are the subject of these final terms and investors should make their own assessment as to the suitability of investing in the securities”;

(b) “The [Central Bank of Ireland or Central Bank (if so defined)] has provided the competent authority(ies) of [insert details of relevant Host Member State(s)] with a certificate of approval attesting that the [base prospectus — insert details of relevant base prospectus] has been drawn up in accordance with the provisions of Regulation (EU) 2017/1129. This should not be considered as an endorsement of the quality of the securities that are the subject of these final terms and investors should make their own assessment as to the suitability of investing in the securities”.

SCHEDULE C

RULE 43

Foreign language requirements

- (a) Where there are instances of continuous foreign language text within a prospectus, the following statement shall be made in that prospectus:

“The language of the [prospectus — amend as appropriate to the type of document] is [Insert Irish or English]. Any foreign language text that is included with or within this document has been included for convenience purposes only and does not form part of the prospectus.”

- (b) Where foreign language text is used in the prospectus to give correct technical meaning, the following statement shall be made in that prospectus:

“The language of the [prospectus — amend as appropriate to the type of document] is [Insert Irish or English]. Certain legislative references and technical terms have been cited in their original language in order that the correct technical meaning may be ascribed to them under applicable law.”

- (c) Where foreign language text is included in whole parts of the prospectus (other than the summary), for example the terms and conditions, the following statement shall be made in that prospectus:

“This [prospectus — amend as appropriate to the type of document] is drawn up in the [Insert Irish or English] language. In case there is any discrepancy between the [Insert Irish or English] text and the [Insert name of the foreign language] text, the [Insert Irish or English] text stands approved for the purposes of approval under Regulation (EU) 2017/1129 of the European Parliament and of the Council of 14 June 2017 on the prospectus to be published when securities are offered to the public or admitted to trading on a regulated market, and repealing Directive 2003/71/EC.”

Signed for and on behalf of the CENTRAL BANK OF IRELAND,
2019.

22/7/19


DERVILLE ROWLAND,
Director General Financial Conduct.

EXPLANATORY NOTE

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

These rules are made for the purposes of imposing requirements relating to transparency law, market abuse law, and prospectus law.

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