

**LISTING RULES (FINANCIAL INFORMATION) (AMENDMENT)
INSTRUMENT 2012**

Powers exercised

- A. The Financial Services Authority makes this instrument in the exercise of:
- (1) the following powers and related provisions in the Financial Services and Markets Act 2000 (the “Act”):
 - (a) section 73A (Part 6 Rules);
 - (b) section 84 (Matters which may be dealt with by prospectus rules);
 - (c) section 138 (General rule-making power); and
 - (d) section 157(1) (Guidance); and
 - (2) the other powers and related provisions listed in Schedule 4 (Powers exercised) of the Listing Rules.

Commencement

- B. This instrument comes into force on 1 October 2012.

Amendments to the Handbook

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

(1)	(2)
Glossary of definitions	Annex A
Listing Rules sourcebook (LR)	Annex B
Prospectus Rules sourcebook (PR)	Annex C

Citation

- D. This instrument may be cited as the Listing Rules (Financial Information) (Amendment) Instrument 2012.

By order of the Board
27 September 2012

Annex A

Amendments to the Glossary of definitions

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

CESR <u>ESMA</u> recommendations	the recommendations for the consistent implementation of the European Commission's Regulation on Prospectuses No 809/2004 published by the Committee of European Securities Regulators <u>European Securities and Markets Authority (ESMA/2011/81)</u> .
financial information table	(in LR) financial information presented in tabular form that covers the reporting period set out in LR 13.5.13R in relation to the entities set out in LR 13.5.14R, and to the extent relevant LR 13.5.15R and LR 13.5.16R <u>LR 13.5.17AR</u> .
mineral expert's report	(in LR) a report prepared in accordance with the CESR <u>ESMA</u> recommendations.
modified auditor's report	(in LR) an <u>accountant's or auditor's</u> report: <ul style="list-style-type: none"> (a) in which the auditor's opinion is qualified <u>modified</u>; or (b) which sets out: <ul style="list-style-type: none"> (i) a problem relating to the business as a going concern; or (ii) a significant uncertainty, the resolution of which is dependent upon future events. <p><u>contains an emphasis-of-matter paragraph.</u></p>

Annex B

Amendments to the Listing Rules sourcebook (LR)

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

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

6.1 Application

6.1.1 R This chapter applies to ~~an~~ a new applicant for the admission of equity shares to premium listing (commercial company) except where LR 6.1.1AR applies.

6.1.1A R This chapter does not apply where a company with an existing premium listing of equity shares introduces a new holding company to its existing group and no transaction as defined in LR 10.1.3R is being undertaken that would otherwise increase the assets or liabilities of the group.

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~~Accounts~~ Historical financial information

- 6.1.3 R (1) A new applicant for the admission of equity shares to a premium listing must have published or filed ~~audited accounts~~ historical financial information that:
- (a) ~~cover~~ covers at least three years; [**Note:** article 44 CARD]
 - (b) ~~are the latest accounts for a period ended~~ has a latest balance sheet date that is not more than six months before the date of the prospectus or listing particulars for the relevant ~~securities~~ shares and not more than nine months before the date the shares are admitted to listing unless LR 5.6.21R applies;
 - (c) ~~are~~ includes the consolidated accounts for the applicant and all its subsidiary undertakings;
 - (d) ~~have~~ has been ~~independently audited;~~ or reported on in accordance with the ~~auditing standards applicable in an EEA State or an equivalent standard~~ acceptable under item 20.1 of Annex I of the PD Regulation; and
 - (e) ~~have been reported on by the auditors without modification~~ is not subject to a modified report, except as set out in LR 6.1.3AG or LR 5.6.21R.
- (2) A new applicant must:
- (a) take all reasonable steps to ensure that ~~its auditors~~ the person

providing the opinion pursuant to LR 6.1.3R(1)(e) and LR 6.1.3DR(3) is ~~are~~ independent of it; and

- (b) obtain written confirmation from ~~its auditors~~ *the person* providing the opinion pursuant to LR 6.1.3R(1)(e) and LR 6.1.3DR(3) that ~~they comply~~ *it complies* with guidelines on independence issued or approved by ~~their~~ *its* national accountancy ~~and~~ or auditing bodies.

6.1.3A G The FSA may accept that LR 6.1.3R(1)(e) and LR 6.1.3DR(3) have been satisfied where a *modified report* is present only as a result of:

- (1) the presence of an emphasis-of-matter paragraph which arises in any of the earlier periods required by LR 6.1.3R and the opinion on the final period is unmodified; or
- (2) the opinion on the historical financial information for the final period under LR 6.1.3R includes an emphasis-of-matter paragraph with regard to going concern and LR 6.1.16R is complied with.

6.1.3B R The historical financial information required by LR 6.1.3R(1) must:

- (1) represent at least 75% of the *new applicant's* business for the full period referred to in LR 6.1.3R(1)(a); and
- (2) put prospective investors in a position to make an informed assessment of the business for which *admission* is sought.

6.1.3C G (1) In determining what amounts to 75% of the *new applicant's* business for the purpose of LR 6.1.3BR(1), the FSA will consider the size, in aggregate, of all of the acquisitions that the *new applicant* has entered into during the period required by LR 6.1.3R(1)(a) and up to the date of the *prospectus*, relative to the size of the *new applicant* as enlarged by the acquisitions.

(2) In ascertaining the size of the acquisitions relative to the *new applicant* for the purposes of LR 6.1.3BR, the FSA will take into account factors such as the assets, profitability and market capitalisation of the businesses.

(3) The figures used should be the latest available for the acquired entity and the *new applicant* as enlarged by the acquisition or acquisitions.

6.1.3D R Where the *new applicant* has made an acquisition or series of acquisitions such that its own consolidated financial information is insufficient to meet the 75% requirement in LR 6.1.3BR, there must be historical financial information relating to the acquired entity or entities which has been published or filed and that:

- (1) covers the period from at least three years prior to the date under LR 6.1.3R(1)(b) up to at least the date of acquisition by the *new*

applicant;

- (2) is presented in a form that is consistent with the accounting policies adopted in the financial information required by LR 6.1.3R;
- (3) is not subject to a *modified report*, except as set out in LR 6.1.3AG ; and
- (4) in aggregate with its own historical financial information represents at least 75% of the enlarged *new applicant's* business for the full period referred to in LR 6.1.3R(1)(a).

6.1.3E G The purpose of LR 6.1.3BR is to ensure that the *issuer* has representative financial information throughout the period required by LR 6.1.3R(1)(a) and to assist prospective investors to make a reasonable assessment of what the future prospects of the *new applicant's* business might be. Investors are then able to consider the *new applicant's* historic revenue earning record in light of its particular competitive advantages, the outlook for the sector in which it operates and the general macro economic climate. The FSA may consider that a *new applicant* does not have representative historical financial information and that its *equity shares* are not eligible for a *premium listing* if a significant part or all of the *new applicant's* business has one or more of the following characteristics:

- (1) a business strategy that places significant emphasis on the development or marketing of products or services which have not formed a significant part of the *new applicant's* historical financial information;
- (2) the value of the business on *admission* will be determined, to a significant degree, by reference to future developments rather than past performance;
- (3) the relationship between the value of the business and its revenue or profit-earning record is significantly different from those of similar companies in the same sector;
- (4) there is no record of consistent revenue, cash flow or profit growth throughout the period of the historical financial information;
- (5) the *new applicant's* business has undergone a significant change in its scale of operations during the period of the historical financial information or is due to do so before or after *admission*;
- (6) it has significant levels of research and development expenditure or significant levels of capital expenditure.

~~Nature and duration of business activities~~ Control of assets and independence

6.1.4 R A *new applicant* for the *admission of equity shares* to a *premium listing* must demonstrate that:

- (1) ~~at least 75% of the *applicant's* business is supported by a historic revenue earning record which covers the period for which accounts are required under LR 6.1.3R(1); [deleted]~~
 - (2) it controls the majority of its assets and has done so for at least the period referred to in ~~paragraph (1)~~ LR 6.1.3R(1)(a); and
 - (3) it will be carrying on an independent business as its main activity.
- 6.1.5 G ~~In determining what amounts to 75% of the *applicant's* business for the purposes of LR 6.1.4R(1), the FSA will take into account factors such as the assets, profitability and market capitalisation of the business. [deleted]~~
- 6.1.6 G ~~LR 6.1.4R is intended to enable prospective investors to make a reasonable assessment of what the future prospects of the *applicant's* business might be. Investors are then able to consider the *company's* historic revenue earning record in light of its particular competitive advantages, the outlook for the sector in which it operates and the general macro economic climate. [deleted]~~
- 6.1.7 G If an *applicant's* business has been in existence for the period referred to in LR 6.1.4R but part or all of its business has one or more of the following characteristics it may not satisfy that rule:
- (1) ~~a business strategy that places significant emphasis on the development or marketing of products or services which have not formed a significant part of the issuer's historic revenue earning record; or~~
 - (2) ~~the value of the business on admission will be determined, to a significant degree, by reference to future developments rather than past performance; or~~
 - (3) ~~the relationship between the value of the business and its revenue or profit earning record is significantly different from those of similar companies in the same sector; or~~
 - (4) ~~there is no record of consistent revenue, cash flow or profit growth throughout the historic revenue earning period; or~~
 - (5) ~~the applicant's business has undergone a significant change in its scale of operations during the period of the historic revenue earning period; or~~
 - (6) ~~it has significant levels of research and development expenditure or significant levels of capital expenditure. [deleted]~~

Mineral companies

- 6.1.8 R If a *mineral company* applies for the *admission* of its *equity shares* and cannot comply with LR 6.1.3R(1)(a) because it has been operating for a

shorter period:

- (1) ~~LR 6.1.3R(1)(a) does not apply to the application~~ it must have published or filed historical financial information since the inception of its business; and
- (2) ~~LR 6.1.3R(1)(b) to (e) and (2) apply to the mineral company only to the extent that it has published accounts~~ with regard to the period for which it has published or filed historical financial information pursuant to (1).

6.1.9 R ~~LR 6.1.3BR(1) and LR 6.1.4R does~~ do not apply to a mineral company that applies for the admission of its equity shares.

...

Scientific research based companies

6.1.11 R If a *scientific research based company* applies for the *admission* of its *equity shares* to a premium listing and cannot comply with LR 6.1.3R(1)(a) because it has been operating for a shorter period:

- (1) ~~LR 6.1.3 R(1)(a) does not apply to the application~~ it must have published or filed historical financial information since the inception of its business; and
- (2) ~~LR 6.1.3 R(1)(b) to (e) and (2) apply to the scientific research based company only to the extent that it has published accounts~~ with regard to the period for which it has published or filed historical financial information under (1).

6.1.12 R An *applicant* for the *admission of equity shares* to a premium listing of a *scientific research based company* does not need to satisfy LR 6.1.3BR or LR 6.1.4R but must:

- (1) demonstrate its ability to attract funds from sophisticated investors prior to the marketing at the time of listing;

...

Other cases where the FSA may modify accounts and track record requirements

6.1.13 G The *FSA* may modify or dispense with ~~LR 6.1.3R(1)(a) or LR 6.1.4R~~ LR 6.1.3BR if it is satisfied that it is desirable in the interests of investors and that investors have the necessary information available to arrive at an informed judgment about the *applicant* and the *equity shares* for which a premium listing is sought. [**Note:** article 44 *CARD*]

6.1.14 G Before modifying or dispensing with ~~LR 6.1.4R~~ LR 6.1.3BR, the *FSA* must also be satisfied that there is an overriding reason for the *applicant* seeking a premium listing (rather than seeking *admission* to a market more suited to a *company* without a ~~historic revenue earning record~~ sufficient historical

financial information to be eligible for a *premium listing*).

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Settlement

6.1.23 R To be *listed*, the constitution of the *company* and the terms of its *equity shares* must be ~~eligible for~~ compatible with electronic settlement.

...

6.1.24A G LR 6.1.23R is intended to ensure that that there is nothing inherent within the constitution of a *company* which prevents electronic settlement of its *equity shares*. The *FSA* recognises that for some companies there may be external factors which affect the eligibility of an *equity share* for electronic settlement.

...

9.2.18 R (1) ...
 (2) The first time a *listed company* publishes financial information as required by ~~LR 9.7 to LR 9.9~~ DTR 4.1 after the publication of the unaudited financial information, *profit forecast* or *profit estimate*, it must:

...

...

9.7A.1 R If a *listed company* prepares a preliminary statement of annual results:
 ...
 (4) the statement must give details of the nature of any likely modification or emphasis-of-matter paragraph that may be contained in the ~~auditors~~ auditors' report required to be included with the annual financial report; and

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...

13.4 Class 1 circulars

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13.4.2 R If a *class 1 circular* contains a ~~modified accountant's report~~ modified report, as described in LR 13.5.25R, the *class 1 circular* must set out:

- (1) whether the modification or emphasis-of-matter paragraph is significant to shareholders;
- (2) if the modification or emphasis-of-matter paragraph is significant to shareholders, the reason for its significance; and
- (3) a statement from the *directors* explaining why they are able to recommend the proposal set out in the *class 1 circular* notwithstanding the ~~modified accountant's report~~ modified report.

...

Acquisition or disposal of mineral resources

- 13.4.7 G ~~For a disposal, the~~ The FSA may modify the information requirements in LR 13.4.6R if it considers that the information set out would not provide significant additional information. In those circumstances the FSA would generally require only the following information, provided it is presented in accordance with reporting standards acceptable to the FSA:
- (1) details of mineral resources, and where applicable reserves (presented separately) and exploration results or prospects;
 - (2) anticipated mine life and exploration potential or similar duration of commercial activity in extracting reserves;
 - (3) an indication of the duration and main terms of any licences or concessions and the legal, economic and environmental conditions for exploring and developing those licences or concessions;
 - (4) indications of the current and anticipated progress of mineral exploration and/or extraction and processing including a discussion of the accessibility of the deposit; and
 - (5) an explanation of any exceptional factors that have influenced the matters in (1) to (4).

Acquisition of a scientific research based company or related assets

- 13.4.8 R If a *class 1 transaction* relates to the acquisition of a *scientific research based company* or related assets, the *class 1 circular* must contain an explanation of the transaction's impact on the acquirer's business plan and the information set out in Section 1c of Part III (Scientific research based companies) of the ~~CESR~~ ESMA recommendations.

13.5 Financial information in Class 1 Circulars

- 13.5.-1 G For the purposes of LR 13.5, references to consolidation include both consolidation and proportionate consolidation.

When financial information must be included in a class 1 circular

- 13.5.1 R Financial information, as set out in this section, must be included by a *listed company* in a *class 1 circular* if:
- (1) the *listed company* is seeking to acquire an interest in a *target* which will result in a consolidation of the *target's* assets and liabilities with those of the *listed company*; or
 - (2) the *listed company* is seeking to dispose of an interest in a *target* which will result in the assets and liabilities which are the subject of the disposal no longer being consolidated; or
 - (3) the *target* (“A”) has itself acquired a *target* (“B”) and:
 - (a) A acquired B within the three year accounting reporting period set out in LR 13.5.13R(1) or after the date of the last published accounts; and
 - (b) the acquisition of B, at the date of its acquisition by A, would have been classified as a *class 1 acquisition* in relation to the *listed company* at the date of acquisition of A by the *listed company*.
- 13.5.2 G ~~A *listed company* that is entering into a *class 1 transaction* which does not fall within LR 13.5.1R must include in a *class 1 circular* such financial information as the FSA may specify. [deleted]~~
- 13.5.3 G ~~LR 13.5.1R will not normally apply to a *property company* making an acquisition or disposal of *property*. [deleted]~~
- 13.5.3A R When a *listed company* is acquiring an interest in a *target* that will be accounted for as an investment, or disposing of an interest in a *target* that has been accounted for as an investment, and the *target's securities* that are the subject of the transaction are admitted to an investment exchange that enables intra-day price formation, the *class 1 circular* should include:
- (1) the amounts of the dividends or other distributions paid in the last three years; and
 - (2) the price per *security* and the imputed value of the entire holding being acquired or disposed of at the close of business at the following times:
 - (a) on the last *business day* of each of the six months prior to the issue of the *class 1 circular*;
 - (b) on the day prior to the announcement of the transaction; and
 - (c) at the latest practicable date prior to the submission for approval of the *class 1 circular*.

- 13.5.3B R When a listed company is acquiring or disposing of an interest in a target that was or will be accounted for using the equity method in the listed company's annual consolidated accounts, the class 1 circular should include:
- (1) for an acquisition,
 - (a) a narrative explanation of the proposed accounting treatment of the target in the issuer's next audited consolidated accounts;
 - (b) a financial information table for the target;
 - (c) a statement that the target financial information has been audited and reported on without modification or a statement addressing LR 13.4.2R and LR 13.5.25R with regard to any modifications; and
 - (d) a reconciliation of the financial information and opinion thereon in accordance with LR 13.5.27R(2)(a) or, where applicable, a statement from the directors in accordance with LR 13.5.27R(2)(b);
 - (2) for a disposal, the line entries relating to the target from its last audited consolidated balance sheet and those from its audited consolidated income statement for the last three years together with the equivalent line entries from its interim consolidated balance sheet and interim consolidated income statement, where the issuer has published subsequent interim financial information.
- 13.5.3C R A listed company that is entering into a class 1 transaction which falls within LR 13.5.1R, LR 13.5.3AR or LR 13.5.3BR but cannot comply with LR 13.5.12R (inclusion of financial information table) or, for an investment, LR 13.5.3AR(2) (inclusion of price per security and the imputed value of the entire holding), must include an appropriate independent valuation of the target in the class 1 circular.
- 13.5.3D G The FSA may dispense with the requirement for an independent valuation under LR 13.5.3CR if it considers that this would not provide useful information for shareholders, in which case the class 1 circular must include such information as the FSA specifies.

~~Form of accounting information~~ Accounting policies

- 13.5.4 R (1) A listed company must present all financial information that is disclosed in a class 1 circular in a form that is consistent with the accounting policies adopted in its own latest annual consolidated accounts.
- (2) The requirement set out in paragraph (1) does not apply to when financial information is presented in accordance with: ~~LR 13.5.36R.~~

- (a) DTR 4.2.6R, in relation only to financial information for the listed company presented for periods after the end of its last published annual accounts; or
- (b) LR 13.3.3R (in relation to pro forma financial information); or
- (c) LR 13.5.27R or LR 13.5.30R (in relation to financial information presented for entities that are admitted to trading on a regulated market or admitted to an appropriate multilateral trading facility or overseas investment exchange); or
- (d) LR 13.5.30BR (in relation to financial information on disposal entities extracted from financial records from previous years); or
- (e) LR 13.5.3AR or LR 13.5.3BR (in relation to targets that are or will be treated as investments or accounted for using the equity method in the listed company's consolidated accounts); or
- (f) the accounting policies to be used in the issuer's next financial statements, provided the issuer's last published annual consolidated accounts have been presented on a restated basis consistent with those to be used in its next accounts on or before the date of the class 1 circular.

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Synergy benefits

- 13.5.9A R Where a listed company includes details of estimated synergies or other quantified estimated financial benefits expected to arise from a transaction in a class 1 circular, it must also include in the class 1 circular:
- (1) the basis for the belief that those synergies or other quantified estimated financial benefits will arise;
 - (2) an analysis and explanation of the constituent elements of the synergies or other quantified estimated financial benefits (including any costs) sufficient to enable the relative importance of those elements to be understood, including an indication of when they will be realised and whether they are expected to be recurring;
 - (3) a base figure for any comparison drawn;
 - (4) a statement that the synergies or other quantified estimated financial benefits are contingent on the class 1 transaction and could not be achieved independently; and

- (5) a statement that the estimated synergies or other quantified estimated financial benefits reflect both the beneficial elements and relevant costs.

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Financial information table

- 13.5.12 R *A listed company* that is required by LR 13.5.1R or LR 13.5.3BR(1) to produce financial information in a *class 1 circular* must include in the circular a *financial information table*.

Class 1 acquisitions

- 13.5.12A R LR 13.5.13R to LR 13.5.30R apply only in relation to a class 1 acquisition.

Financial information table: reporting period

- 13.5.13 R *A financial information table for a class 1 acquisition* must cover one of the following reporting periods:
- (1) a period of three years up to the end of the latest financial period for which the *target* or its parent has prepared audited accounts; or
 - (2) a lesser period than the period set out in paragraph (1) if the *target's* business has been in existence for less than three years; or
 - (3) ~~for a class 1 disposal, the period set out in LR 13.5.19R.~~

Financial information table: class 1 acquisitions

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- 13.5.15 R ~~*A listed company* must include in a separate *financial information table*, financial information that covers those *undertakings* which are to become the *target's subsidiary undertakings*, if applicable. [deleted]~~
- 13.5.16 R
- (1) This rule ~~applies if a *listed company* is seeking to acquire an interest in a *target* (“A”) that has itself acquired a *target* (“B”) and:~~
 - (a) ~~A acquired B within the three year reporting period set out in LR 13.5.13R(1) or after the date of the last published accounts; and~~
 - (b) ~~the acquisition of B, at the date of its acquisition by A, would have been classified as a *class 1 acquisition* in relation to the *listed company* at the date of acquisition of A by the *listed company*.~~
 - (2) ~~*A listed company* must include in a *financial information table* pre-acquisition financial information on B that covers the period from the commencement of the three year reporting period set out in LR~~

~~13.5.13R(1) up to the date of acquisition by A. [deleted]~~

- 13.5.17 G If the *target* made a series of acquisition that:
- (1) ~~are not caught individually by LR 13.5.16R; and~~
 - (2) ~~were made during or subsequent to the reporting period set out in LR 13.5.13R(1) or (2);~~

~~the FSA may require additional financial information about those acquisitions to be included in the *financial information table*. [deleted]~~

- 13.5.17A R If the *target* has made an acquisition or a series of acquisitions that were made during, or subsequent to, the reporting periods set out in LR 13.5.13R the listed company must include additional *financial information tables* so that the financial information presented by the listed company represents at least 75% of the enlarged target for the period from the commencement of the relevant three year reporting period set out in LR 13.5.13R(1) up to the date of the acquisition by the listed company or the last balance sheet date presented by it under LR 13.5.13R(1), whichever of the two is earlier.

- 13.5.17B G For the purposes of assessing whether the financial information presented in accordance with LR 13.5.17AR represents at least 75% of the enlarged target the FSA will take into account factors such as the assets, profitability and market capitalisation of the business.

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Financial information table: class 1 disposal

- 13.5.19 R (1) ~~In the case of a *class 1 disposal*, a *financial information table* must include, for the *target*:~~
- (a) ~~the last audited consolidated balance sheet; and~~
 - (b) ~~the audited consolidated income statements for the last three years;~~
- ~~if audited accounts have been prepared for the *target*.~~
- (2) ~~If audited accounts have not been prepared for the *target*, the information required by paragraph (1) must be extracted from the consolidated schedules that underlie the *listed company's* audited consolidated accounts. The income statements must be drawn up to at least the level of profit or loss for the period.~~
- (3) ~~If the *target* has not been owned by the *listed company* for the entire reporting period set out in paragraph (1)(b), the information required by paragraph (1) may be extracted from the *target's* accounting records. [deleted]~~
- 13.5.20 G If a dispensation of LR 13.5.19R has been granted because it is not possible

to provide a meaningful allocation of costs, such as interest and tax, the *class 1 circular* should contain a statement to this effect. [deleted]

Financial information table: accountant's opinion

13.5.21 R ~~A financial information table must be accompanied by an accountant's opinion unless LR 15.5.27R, LR 13.5.28R or LR 13.5.29G applies. Unless LR 13.5.3AR, LR 13.5.3BR or LR 13.5.27R applies, a financial information table must disclose how the accounting policies used conform with LR 13.5.4R and be accompanied by an accountant's opinion as set out in LR 13.5.22R.~~

13.5.22 R An accountant's opinion must set out:

- (1) whether, for the purposes of the *class 1 circular*, the *financial information table* gives a true and fair view of the financial matters set out in it; and
- (2) ~~whether the financial information table has been prepared in a form that is consistent with the accounting policies adopted in the listed company's latest annual accounts.~~

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13.5.25 R ~~If an accountant's report, which contains the accountant's opinion required by LR 13.5.21 R, is modified or contains an emphasis-of-matter paragraph, details of all material matters must be set out in the *class 1 circular*, including:~~

- (1) all the reasons for the modification or emphasis-of-matter paragraph; and
- (2) a quantification of the effects, if both relevant and practicable.

13.5.26 R ~~If the accounts historical financial information of a target that falls within LR 13.5.14R to LR 13.5.16R or LR 13.5.17AR contain a modified auditor's report is subject to a modified report, details of the material matters giving rise to the modification or emphasis-of-matter paragraph must be set out in the *class 1 circular*.~~

~~Accountant's opinion: acquisitions~~ Acquisitions of publicly traded companies

13.5.27 R (1) ~~This rule LR 13.5.27R(2) applies if where the target is:~~

- (a) *admitted to trading on a regulated market*; or
- (b) a company whose securities are either listed on an *overseas investment exchange that is not a regulated market* or admitted to trading ~~on an overseas regulated market~~ a multilateral trading facility, where appropriate standards as regards the production, publication and auditing of financial

information are in place;

~~and a material adjustment needs to be made to the *target's* financial statements to achieve consistency with the *listed company's* accounting policies and none of the financial information included in the *target's financial information table* is subject to a *modified report*, except where a dispensation has been granted under LR 13.5.27CR.~~

- (2) ~~Where LR 13.5.27R(1) or LR 13.5.3BR(1) applies the *A listed company* must include the following in the *class 1 circular* either:~~
- (a) ~~a reconciliation of financial information on the *target*, for all periods covered by the *financial information table*, on the basis of the *listed company's* accounting policies, accompanied by an accountant's opinion that sets out:~~
- ~~(i) whether the reconciliation of financial information in the *financial information table* has been properly compiled on the basis stated; and~~
- ~~(ii) whether the adjustments are appropriate for the purpose of presenting the financial information (as adjusted) on a basis consistent in all material respects with the *listed company's* accounting policies; or~~
- (b) ~~an accountant's opinion that sets out: a statement by the *directors* that no material adjustment needs to be made to the *target's* financial information to achieve consistency with the *listed company's* accounting policies.~~
- ~~(i) whether the reconciliation of financial information in the *financial information table* has been properly compiled on the basis stated; and~~
- ~~(ii) whether the adjustments are appropriate for the purpose of presenting the financial information (as adjusted) on a basis consistent in all material respects with the *listed company's* accounting policies.~~

13.5.27A G The FSA will make its assessment of whether the accounting and other standards applicable to an investment exchange or *multilateral trading facility* as a result of *securities* being admitted to trading are appropriate for the purpose of LR 13.5.27R(1)(b) having regard to at least the following matters in relation to the legal and regulatory framework applying to the *target* by virtue of its admission to that market:

- (1) the quality of auditing standards compared with International Standards on Auditing;
- (2) requirements for independence of auditors;

- (3) the nature and extent of regulation of audit firms;
- (4) the quality of accounting standards compared with International Financial Reporting Standards;
- (5) the requirements for the timeliness of publication of financial information;
- (6) the presence and effectiveness of monitoring of the timely production and publication of the accounts; and
- (7) the existence and level of external independent scrutiny of the quality of accounts and the disclosures therein.

13.5.27B R Where a *listed company* proposes to rely on LR 13.5.27R(1)(b), its *sponsor* must submit to the FSA an assessment of the appropriateness of the standards applicable to an investment exchange or *multilateral trading facility* against the factors set out in LR 13.5.27AG(1) to (7) and any other matters that it considers should be noted. The assessment must be submitted before or at the time the *listed company* submits the draft *class 1 circular*.

13.5.27C R The FSA may grant a dispensation from LR 13.5.27R(1) to allow the application of LR 13.5.27R(2) where a *modified report* on the *target's* financial information has been produced. In such circumstances the FSA will have regard to the factors set out in LR 6.1.3AG.

~~When an accountant's opinion is not required~~

13.5.28 R ~~An accountant's opinion is not required if the *target* is:~~

- ~~(1) *admitted to trading*; or~~
- ~~(2) *a company whose securities are listed on an overseas investment exchange or admitted to trading on an overseas regulated market;*~~

~~and no material adjustment needs to be made to the *target's* financial statements to achieve consistency with the *listed company's* accounting policies. [deleted]~~

13.5.29 G ~~In the case of a *class 1 disposal* a *listed company* is not required to include an accountant's opinion with the *financial information table*. [deleted]~~

Half-yearly and quarterly financial information

13.5.30 R ~~If the *target* of an acquisition has published half-yearly or quarterly financial information subsequent to the period set out in LR 13.5.13R(1) or (2), such financial information must be~~ If a *class 1 circular* includes half-yearly or quarterly or other interim financial information for the *target*, the financial information should be presented in accordance with LR 13.5.4R(1) and be accompanied by a confirmation from the *directors* of the

consistency of the accounting policies with those of the issuer, except:

- (1) reproduced in the class 1 circular; and where LR 13.5.27R(1) applies, the financial information should be presented in accordance with LR 13.5.27R(2) except that no accountant's opinion is required; or
- (2) reconciled in accordance with LR 13.5.27R(2), if applicable where LR 13.5.3BR applies, the financial information should be presented in accordance with LR 13.5.3BR(1)(b) and LR 13.5.3BR(1)(d).

Class 1 disposals

13.5.30A R LR 13.5.30BR to LR 13.5.30DG apply only in relation to a class 1 disposal.

- 13.5.30B R
- (1) In the case of a class 1 disposal, a financial information table must include for the target:
 - (a) the last annual consolidated balance sheet;
 - (b) the consolidated income statements for the last three years drawn up to at least the level of profit or loss for the period; and
 - (c) the consolidated balance sheet and consolidated income statement (drawn up to at least the level of profit or loss for the period) at the issuer's interim balance sheet date if the issuer has published interim financial statements since the publication of its last annual audited consolidated financial statements.
 - (2) The information in (1) must be extracted without material adjustment from the consolidation schedules that underlie the listed company's audited consolidated accounts or, in the case of (c), the interim financial information, and must be accompanied by a statement to this effect.
 - (3) If the information in (1) is not extracted from the consolidation schedules it must be extracted from the issuer's accounting records and where an allocation is made, the information must be accompanied by:
 - (a) an explanation of the basis for any financial information presented; and
 - (b) a statement by the directors of the listed company that such allocations provide a reasonable basis for the presentation of the financial information for the target to enable shareholders to make a fully informed voting decision.
 - (4) If the target has not been owned by the listed company for the entire reporting period set out in (1)(b), the information required by (1) or

(3) may be extracted from the *target's* accounting records.

13.5.30C R Where a change of accounting policies has occurred during the period covered by the *financial information table* required by LR 13.5.30BR the financial information must be presented on the basis of both the original and amended accounting policies for the year prior to that in which the new accounting policy is adopted unless the change did not require a restatement of the comparative. Therefore the *financial information table* should have four columns (or more where changes have occurred in more than one year).

13.5.30D G The FSA may modify LR 13.5.30BR(1)(b) and (c) where it is not possible for the *listed company* to provide a meaningful allocation of its costs in the *target's* audited consolidated income statements. The *class 1 circular* should contain a statement to this effect where this modification has been granted. The FSA would not normally expect to grant such modifications except in respect of non-operating costs such as finance costs and tax.

...

Profit forecasts and profit estimates

...

13.5.33 R If, prior to the *class 1 transaction*, a *profit forecast* or *profit estimate* was published that:

- (1) relates to any of the *listed company*, a significant part of the *listed company group*, ~~or~~ the *target* or a significant part of the *target*; and
- (2) ~~is still outstanding~~ relates to financial information including the period of the forecast which has yet to be published at the date of the *class 1 circular*;

~~the *listed company* must include that *profit forecast* or *profit estimate* in the *class 1 circular* or include an explanation of why the *profit forecast* or *profit estimate* is no longer valid~~ either:

- (3) include that *profit forecast* or *profit estimate* in the *class 1 circular* and comply with LR 13.5.32R; or
- (4) include the *profit forecast* or *profit estimate* in the *class 1 circular* together with an explanation of why the *profit forecast* or *profit estimate* is no longer valid and why reassessment of the *profit forecast* or *profit estimate* in the *class 1 circular* is not necessary for the *listed company* to comply fully with LR 13.3.1R(3).

13.5.33A G For the purposes of LR 13.5.33R, the fact that the *profit forecast* or *profit estimate* was prepared for a reason other than the *class 1 circular* does not itself indicate invalidity.

13.5.33B G For the purposes of LR 13.5.33R(1) a significant part of the *listed company* or *target* is any part that represents over 75% of the *listed company's group* or the *target* respectively. For these purposes the *FSA* will take into account factors such as the assets, profitability and market capitalisation of the business.

13.5.34 G A *listed company* should consider LR 9.2.18R regarding information that must be published after a *class 1 transaction*.

13.5.35 G ~~LR 13.5.32R and LR 13.5.33R do not apply to class 1 disposals. [deleted]~~

Subsequent publication of unaudited financial information

13.5.36 R (1) ~~A *listed company* that publishes unaudited financial information in a *class 1 circular* must:~~

(a) ~~reproduce that financial information in its next annual report and accounts;~~

(b) ~~produce and disclose in the annual report and accounts the actual figures for the same period covered by the information reproduced under paragraph (a); and~~

(c) ~~provide an explanation of the difference, if there is a difference of 10% or more between the figures required by paragraph (b) and those reproduced under paragraph (a).~~

(2) Paragraph (1) does not apply to:

(a) ~~pro forma financial information prepared in accordance with Annex 1 and Annex 2 of the *PD Regulation*; or~~

(b) ~~any preliminary statements of annual results or half yearly or quarterly reports that are reproduced in the *class 1 circular*; or~~

(c) ~~any additional analysis of financial information that is set out in a *financial information table*. [deleted]~~

...

13.8 Other circulars

...

Disapplying pre-emption rights

13.8.2 R A *circular* relating to a resolution proposing to disapply the statutory pre-emption rights under section 561 of the Companies Act 2006 (Existing shareholders' right of pre-emption) provided by LR 9.3.11R must include:

...

...

Appendix 1 Relevant definitions

<i>CESR ESMA</i> <i>recommendations</i>	the recommendations for the consistent implementation of the European Commission's Regulation on Prospectuses No 809/2004 published by the Committee of European Securities Regulators <u>European Securities and Markets Authority (ESMA/2011/81)</u> .	
<i>financial information table</i>	financial information presented in tabular form that covers the reporting period set out in <i>LR 13.5.13R</i> in relation to the entities set out in <i>LR 13.5.14R</i> , and to the extent relevant <i>LR 13.5.15R</i> and <i>LR 13.5.16R</i> <u><i>LR 13.5.17AR</i></u> .	
<i>mineral expert's report</i>	a report prepared in accordance with the <i>CESR ESMA</i> <u><i>recommendations</i></u> .	
<i>modified auditor's report</i>	an <u>accountant's or auditor's report</u> :	
	(a)	in which the auditor's opinion is qualified <u>modified</u> ; or
	(b)	which sets out: (i) a problem relating to the business as a going concern ; or (ii) a significant uncertainty, the resolution of which is dependent upon future events . <u>contains an emphasis-of-matter paragraph.</u>

Annex C

Amendments to Prospectus Rules sourcebook (PR)

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

~~CE~~SR ESMA recommendations

1.1.8 G In determining whether Part 6 of the *Act*, these *rules* and the *PD Regulation* ~~has~~ have been complied with, the *FSA* will take into account whether a *person* has complied with the ~~CE~~SR ESMA recommendations.

...

Property valuation reports

5.6.5 G To comply with paragraph 130 of the ~~CE~~SR ESMA recommendations, the *FSA* would expect a valuation report for a property company to be in accordance with either:

...

...

Appendix 1

<p>CE<u>SR</u> <u>ESMA</u> recommendations</p>	<p>the recommendations for the consistent implementation of the European Commission’s Regulation on Prospectuses No 809/2004 published by the Committee of European Securities Regulators <u>European Securities and Markets Authority (ESMA/2011/81)</u>.</p>
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