



STATUTORY INSTRUMENTS.

**S.I. No. 81 of 2020**



EUROPEAN UNION (SHAREHOLDERS' RIGHTS) REGULATIONS 2020

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The Minister for Business, Enterprise and Innovation, in exercise of the powers conferred on her by section 3 of the European Communities Act 1972 (No. 27 of 1972) and for the purpose of giving effect to Directive (EU) 2017/828 of the European Parliament and of the Council of 17 May 2017 amending Directive 2007/36/EC as regards the encouragement of long-term shareholder engagement<sup>1</sup>, hereby makes the following regulations:

*Citation, construction and commencement*

1. (1) These Regulations may be cited as the European Union (Shareholders' Rights) Regulations 2020.
- (2) These Regulations shall be read as one with the Companies Act 2014 (No. 38 of 2014).
- (3) These Regulations shall come into operation on 30 March 2020.

*Definition*

2. In these Regulations, "Principal Act" means the Companies Act 2014.

*Amendment of section 1000 of Principal Act*

3. Section 1000 of the Principal Act is amended, in subsection (1) -
  - (a) by the substitution of the following definition for the definition of "regulated market":

“ ‘regulated market’ has the meaning given to it by point (21) of Article 4(1) of Directive 2014/65/EU of the European Parliament and of the Council of 15 May 2014 on markets in financial instruments and amending Directive 2002/92/EC and Directive 2011/61/EU (recast)<sup>2</sup>,”

and
  - (b) by the insertion of the following definition:

“ ‘Shareholders’ Rights Directive’ means Directive (EU) 2007/36/EC of the European Parliament and of the Council of 11 July 2007 on the exercise of certain rights of shareholders in listed companies<sup>3</sup>, as amended by -

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<sup>1</sup> OJ No. L 132, 20.5.2017, p.1

<sup>2</sup> OJ No. L 173, 12.6.2014, p. 349

<sup>3</sup> OJ No. L 184, 14.7.2007, p. 17

- (a) Directive 2014/59/EU of the European Parliament and of the Council of 15 May 2014 establishing a framework for the recovery and resolution of credit institutions and investment firms and amending Council Directive 82/891/EEC, and Directives 2001/24/EC, 2002/47/EC, 2004/25/EC, 2005/56/EC, 2007/36/EC, 2011/35/EU, 2012/30/EU and 2013/36/EU, and Regulations (EU) No. 1093/2010 and (EU) No. 648/2012, of the European Parliament and of the Council<sup>4</sup>, and
- (b) Directive (EU) 2017/828 of the European Parliament and of the Council of 17 May 2017 amending Directive 2007/36/EC as regards the encouragement of long-term shareholder engagement<sup>1</sup>;

*Amendment of section 1092 of Principal Act*

4. Section 1092 of the Principal Act is amended -

- (a) in subsection (1), by the substitution of “Subject to subsection (4), each” for “Each”,
- (b) in subsection (2), by the substitution of “Subject to section 1110M, the remuneration of” for “The remuneration of”, and
- (c) by the insertion of the following subsection:

“(4) Where Chapter 8C applies to a PLC, nothing in this section shall be read as disapplying, or allowing a PLC to disapply, a requirement under that Chapter.”.

*Amendment of section 1099 of Principal Act*

5. Section 1099 of the Principal Act is amended -

- (a) by the substitution of the following subsection for subsection (1):

“(1) Sections 1100 to 1110 have effect in relation to -

- (a) a notice of a general meeting given by a traded PLC, and
- (b) otherwise in relation to a general meeting of a traded PLC.”,
- (b) in subsection (3), by the insertion of “and Chapters 8A, 8B, 8C and 8D” after “1100 to 1110”, and
- (c) by the insertion of the following subsection:

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<sup>4</sup> OJ No. L 173, 12.6.2014, p.190

“(4) In this section, and sections 1100 to 1110, ‘traded PLC’ means a PLC -

- (a) whose shares are admitted to trading on a regulated market in any Member State, and
- (b) that is neither -
  - (i) an undertaking for collective investment in transferrable securities within the meaning of Article 1(2) of Directive 2009/65/EC of the European Parliament and of the Council of 13 July 2009 on the coordination of laws, regulations and administrative provisions relating to undertakings for collective investment in transferable securities (UCITS)<sup>5</sup>, nor
  - (ii) a collective investment undertaking within the meaning of point (a) of Article 4(1) of Directive 2011/61/EU of the European Parliament and of the Council of 8 June 2011 on Alternative Investment Fund Managers and amending Directives 2003/41/EC and 2009/65/EC and Regulations (EC) No. 1060/2009 and (EU) No. 1095/2010<sup>6</sup>.”.

*Modification of application of section 325(1) to traded PLC*

6. The Principal Act is amended by the insertion of the following section after section 1102:

“**1102A.** In its application to a traded PLC, section 325(1) shall apply as if the following paragraph were inserted after paragraph (e):

- ‘(f) a remuneration report in accordance with section 1110N;’.”.

*Insertion of Chapters 8A, 8B, 8C and 8D into Part 17 of Principal Act*

7. Part 17 of the Principal Act is amended by the insertion of the following Chapters after Chapter 8:

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<sup>5</sup> OJ No. L 302, 17.11.2009, p. 32

<sup>6</sup> OJ No. L 174, 1.7.2011, p. 1

**“CHAPTER 8A**

***Rights of shareholders***

**Interpretation, application and commencement (Chapter 8A)**

**1110A.** (1) In this Chapter -

‘General Data Protection Regulation’ means Regulation (EU) 2016/679 of the European Parliament and of the Council of 27 April 2016 on the protection of natural persons with regard to the processing of personal data and on the free movement of such data, and repealing Directive 95/46/EC (General Data Protection Regulation)<sup>7</sup>;

‘intermediary’ means a person, whether situated in a Member State or elsewhere, that provides services, in relation to a traded PLC, of safekeeping of shares, administration of shares or maintenance of securities accounts on behalf of shareholders or other persons, and includes -

- (a) an investment firm as defined in Regulation 3 of the European Union (Markets in Financial Instruments) Regulations 2017 (S.I. No. 375 of 2017),
- (b) a credit institution as defined in point (1) of Article 4(1) of Regulation (EU) No. 575/2013 of the European Parliament and of the Council of 26 June 2013 on prudential requirements for credit institutions and investment firms and amending Regulation (EU) No. 648/2012<sup>8</sup>, and
- (c) a central securities depository as defined in point (1) of Article 2(1) of Regulation (EU) No. 909/2014 of the European Parliament and of the Council of 23 July 2014 on improving securities settlement in the European Union and on central securities depositories and amending Directives 98/26/EC and 2014/65/EU and Regulation (EU) No. 236/2012<sup>9</sup>;

‘personal data’ has the meaning assigned to it in the General Data Protection Regulation;

‘traded PLC’ has the meaning assigned to it by section 1099(4).

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<sup>7</sup> OJ No. L 119, 4.5.2016, p.1

<sup>8</sup> OJ No. L 176, 27.6.2013, p. 1

<sup>9</sup> OJ No. L 257, 28.8.2014, p. 1

(2) A word or expression that is used in this Chapter and is also used in the Shareholders' Rights Directive has, unless the context otherwise requires, the same meaning in this Chapter as it has in that Directive.

(3) This Chapter shall be read in conjunction with any applicable provision of European Union law adopted by the European Commission as an implementing act in accordance with the Shareholders' Rights Directive, including Commission Implementing Regulation (EU) 2018/1212 of 3 September 2018 laying down minimum requirements implementing the provisions of Directive 2007/36/EC of the European Parliament and of the Council as regards shareholder identification, the transmission of information and the facilitation of the exercise of shareholders rights<sup>10</sup>.

(4) This section shall come into operation on 3 September 2020.

### **Identification of shareholders**

**1110B.** (1) (a) A traded PLC, or its nominee referred to in paragraph (c), may request, from an intermediary that provides services with respect to the shares of the traded PLC -

- (i) information regarding shareholder identity that relates to shares held in that traded PLC, and
- (ii) the details of the next intermediary, if any, in the chain of intermediaries.

- (b) A requester may state, in a request, that the information to which the request relates is to be provided to the requester by the intermediary from whom it is requested.
- (c) A traded PLC may nominate a third party to make a request on its behalf.
- (d) In this section, 'request' means a request under paragraph (a), and 'requester' means the person making the request.

(2) (a) An intermediary that receives a request and is in possession or control of the information to which that request relates shall, as soon as practicable, provide the requester with that information.

- (b) An intermediary that receives a request and is not in possession or control of the information to which that request relates shall, as soon as practicable -
  - (i) inform the requester that it is not in possession or control of the information,

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<sup>10</sup> OJ No. L 223, 4.9.2018, p. 1

- (ii) where the intermediary is part of a chain of intermediaries, transmit the request to each other intermediary in the chain known to the first-mentioned intermediary as being part of the chain, and
  - (iii) provide the requester with the details of each intermediary, if any, to which the request has been transmitted under subparagraph (ii).
- (3) (a) (i) Subparagraph (ii) applies to an intermediary that -
- (I) receives a request transmitted to it under subsection (2)(b), and
  - (II) is in possession or control of the information to which that request relates.
- (ii) An intermediary to which this subparagraph applies, shall, as soon as practicable, provide the information to which the request relates -
- (I) where the requester has made a statement under subsection (1)(b), to the intermediary that transmitted the request in accordance with subsection (2)(b), or
  - (II) where a requester has not made a statement under subsection (1)(b), to the requester.
- (b) An intermediary that receives information under subparagraph (a)(ii)(I) shall, as soon as practicable, provide the information to the requester.

(4) Subject to subsection (5), the personal data of shareholders may be processed by a requester, traded PLC or intermediary under this section, in so far as it is necessary to -

- (a) enable a traded PLC to -
  - (i) identify its existing shareholders in accordance with this section, or
  - (ii) communicate with the shareholders directly, or
- (b) facilitate the exercise of shareholder rights and shareholder engagement with the traded PLC.

(5) Without prejudice to any longer storage period laid down by European Union law, and subject to subsection (6), where a requester or intermediary receives or otherwise processes the personal data of a person who is a

shareholder in accordance with this section, that personal data shall not be so processed for longer than 12 months after the requester or intermediary, as the case may be, has become aware that the person concerned has ceased to be a shareholder.

(6) Subject to compliance with the Data Protection Acts 1988 to 2018 and the General Data Protection Regulation, a traded PLC or intermediary may process the personal data of shareholders in so far as doing so is necessary for any of the following purposes:

- (a) carrying out, or facilitating the carrying out of, an investigation into suspected or alleged offences in relation to the traded PLC;
- (b) engaging in or facilitating litigation relating to the shareholder or shareholders to whom the personal data relates;
- (c) maintaining records of, and otherwise dealing with, unclaimed dividend entitlements;
- (d) disposing of, or otherwise dealing with, shares of untraced shareholders;
- (e) dealing with queries from former or current shareholders relating to their shares, including queries regarding historic transactions;
- (f) adducing evidence of transactions, changes in ownership or dispositions of shares having taken place;
- (g) compliance with applicable accounting, regulatory or tax requirements;
- (h) compliance with any direction, instruction or other request from a regulatory or supervisory body;
- (i) compliance with any provision of this Act.

(7) An intermediary that discloses information regarding the identity of a shareholder in accordance with this section shall not be considered to be in breach of any restriction on disclosure of information imposed by contract or by any legislative, regulatory or administrative provision.

(8) This section shall come into operation on 3 September 2020.

### **Transmission of information**

**1110C.**(1) Subject to subsection (3), where a shareholder in a traded PLC requires information in order to exercise rights attaching to the shareholder's shares, the traded PLC shall, as soon as practicable after becoming aware of that requirement, provide an intermediary that provides services in relation to that shareholder's shares with -



- (a) that information, or
- (b) where the information is available on the traded PLC's website, a notice indicating where on the website the information can be found.

(2) (a) Subject to paragraph (b) and subsection (3), an intermediary (in this subsection referred to as a 'relevant intermediary') who is provided with the relevant information shall, as soon as practicable, transmit the relevant information to the shareholder to whom it relates.

- (b) Where a relevant intermediary cannot transmit the relevant information directly to the shareholder to whom it relates, and the relevant intermediary is part of a chain of intermediaries, the relevant intermediary shall, as soon as practicable, transmit the relevant information to each other intermediary in the chain of intermediaries known to the relevant intermediary as being part of the chain.
- (c) An intermediary to whom relevant information is transmitted under paragraph (b) and who can transmit the relevant information directly to the shareholder to whom it relates shall, as soon as practicable, transmit the information directly to that shareholder.

(3) Where a traded PLC transmits relevant information directly to the shareholder to whom it relates, subsections (1) and (2) shall not apply in so far as that information is concerned.

(4) (a) Subject to paragraphs (b) and (c), where a shareholder in a traded PLC has given to an intermediary (in this subsection referred to as a 'relevant intermediary') an instruction relating to the exercise of rights attaching to the shareholder's shares (in this subsection referred to as the 'relevant instruction'), the intermediary shall, as soon as practicable and in accordance with the relevant instruction, transmit the information to which the relevant instruction relates to the traded PLC.

- (b) Where the relevant intermediary cannot transmit the information to which the relevant instruction relates directly to the traded PLC in accordance with the relevant instruction, and the intermediary is part of a chain of intermediaries, the relevant intermediary shall, as soon as practicable, transmit the relevant instruction to each other intermediary in the chain of intermediaries known to the relevant intermediary as being part of the chain.
- (c) An intermediary to whom the relevant instruction is transmitted under paragraph (b), and who can transmit the information to

which the relevant instruction relates directly to the traded PLC, shall, as soon as practicable and in accordance with the relevant instruction, transmit that information directly to the traded PLC.

(5) A shareholder in a traded PLC may nominate a third party to be the person to receive information or notifications under this section on the shareholder's behalf and, accordingly, references in this section to 'shareholder' shall be construed as including any such third party.

(6) In this section, 'relevant information' means, as appropriate, the information referred to in paragraph (a), or the notice referred to in paragraph (b), of subsection (1).

(7) This section shall come into operation on 3 September 2020.

### **Facilitation of exercise of shareholder rights**

**1110D.** (1) Where an intermediary provides services to a shareholder in relation to shares, the intermediary shall facilitate the exercise of the shareholder's rights by -

- (a) making the necessary arrangements for the shareholder to exercise the rights attaching to the shareholder's shares, or
- (b) exercising the rights attaching to the shareholder's shares upon the explicit authorisation and instruction of the shareholder, and for the shareholder's benefit.

(2) When votes in a general meeting of a traded PLC are cast electronically, the traded PLC shall send, as soon as practicable, to each person who has cast such a vote, an electronic confirmation of receipt of the vote.

(3) (a) Subject to paragraph (b), where a shareholder's vote has been validly recorded and counted at a general meeting of a traded PLC, the traded PLC shall, upon request by the shareholder, provide the shareholder with a confirmation that the vote has been validly recorded and counted.

- (b) Paragraph (a) shall not apply where information on whether or not a vote cast at a general meeting has been validly recorded and counted by the traded PLC is otherwise available to the person casting the vote or to the person on whose behalf the vote was cast, as the case may be.

(4) Subject to subsection (5), where an intermediary receives a confirmation under subsection (2) or (3), the intermediary shall, as soon as practicable, transmit the confirmation to the shareholder to whom the confirmation relates.

(5) (a) Subject to paragraph (b), an intermediary (in this subsection referred to as a ‘relevant intermediary’) who is provided with a confirmation under subsection (2) or (3) (in this subsection referred to as the ‘relevant confirmation’), shall, as soon as practicable, transmit the relevant confirmation to the shareholder to whom it relates.

(b) Where -

- (i) it is not possible for the relevant intermediary to transmit the relevant confirmation directly to the shareholder to whom it relates, and
- (ii) the relevant intermediary is part of a chain of intermediaries,

the relevant intermediary shall, as soon as practicable, transmit the relevant confirmation to each other intermediary in the chain of intermediaries known to the relevant intermediary as being part of the chain.

(c) An intermediary to whom a relevant confirmation is transmitted under paragraph (b) and who can transmit the relevant confirmation directly to the shareholder to whom it relates shall, as soon as practicable, transmit the relevant confirmation directly to that shareholder.

(6) A shareholder in a traded PLC may nominate a third party to exercise rights, make requests, receive confirmations and carry out any other functions under this section on the shareholder’s behalf, and, accordingly, references in this section to ‘shareholder’ shall be construed as including any such third party.

(7) This section shall come into operation on 3 September 2020.

### **Non-discrimination, proportionality and transparency of costs**

**1110E.** (1) Where an intermediary charges a fee for providing a service under this Chapter, the intermediary shall publicly disclose the fee charged for such service.

(2) Subject to subsection (3), where an intermediary charges a shareholder, traded PLC or intermediary a fee for providing a service under this Chapter, the first-mentioned intermediary shall not charge a different fee for providing the service on a cross-border basis than the fee it charges for providing that service in the State.

(3) An intermediary may charge a different fee for providing a service on a cross-border basis than the fee it charges for providing the service in the State where the difference between the fees charged -

- (a) is duly justified, and
- (b) reflects the difference between -

- (i) the actual costs incurred by the intermediary in providing the service on a cross-border basis, and
- (ii) the actual costs incurred by the intermediary in providing the service in the State.

## CHAPTER 8B

### *Transparency of institutional investors, asset managers and proxy advisors*

#### **Interpretation and application (Chapter 8B)**

**1110F.** (1) In this Chapter -

‘engagement activity’ means any activity, action, plan or document that is carried out or made for the purpose of giving effect to an engagement policy;

‘relevant asset manager’ means an asset manager -

- (a) that invests in shares traded on a regulated market on behalf of investors, and
- (b) in respect of which the competent Member State, within the meaning of Article 1(2)(a) of the Shareholders' Rights Directive, is the State;

‘relevant institutional investor’ means an institutional investor -

- (a) that invests, whether directly or through an asset manager, in shares traded on a regulated market, and
- (b) in respect of which the competent Member State, within the meaning of Article 1(2)(a) of the Shareholders' Rights Directive, is the State.

(2) A word or expression that is used in this Chapter and is also used in the Shareholders' Rights Directive has, unless the context otherwise requires, the same meaning in this Chapter as it has in that Directive.

#### **Engagement policy - institutional investors**

**1110G.** (1) Subject to subsection (2), a relevant institutional investor shall develop and publicly disclose an engagement policy in accordance with this section.

(2) Where a relevant institutional investor does not develop and publicly disclose an engagement policy in accordance with this section, the relevant institutional investor shall publicly disclose a clear and reasoned explanation for its failure to do so.

(3) The engagement policy developed under subsection (1) shall describe how the relevant institutional investor -

- (a) integrates shareholder engagement in its investment strategy,
- (b) monitors investee companies on relevant matters, including strategy, financial and non-financial performance and risk, capital structure, social and environmental impact and corporate governance,
- (c) conducts dialogues with investee companies,
- (d) exercises voting rights and other rights attached to shares,
- (e) cooperates with other shareholders,
- (f) communicates with relevant stakeholders of the investee companies, and
- (g) manages actual and potential conflicts of interest in relation to its engagement.

(4) Subject to subsections (5) and (6), a relevant institutional investor that has developed an engagement policy in accordance with this section shall, on an annual basis, publicly disclose how its engagement policy has been implemented, in a manner that includes -

- (a) a general description of voting behaviour,
- (b) an explanation of the most significant votes taken,
- (c) information on the use, if any, of the services of proxy advisors, and
- (d) information on how it has cast votes in the general meetings of companies in which it holds shares.

(5) A disclosure under subsection (4) may exclude information regarding votes that are insignificant due to the subject matter of the vote or the size of the holding in the company in question.

(6) Where a relevant institutional investor does not, in a given year, publicly disclose how its engagement policy has been implemented in accordance with subsection (4), the relevant institutional investor shall publicly disclose a clear and reasoned explanation for its failure to do so.

(7) (a) Rules that apply to a relevant institutional investor regarding conflicts of interest shall also apply to a relevant institutional investor regarding the engagement activities.

- (b) For the purposes of paragraph (a), rules that apply to a relevant institutional investor regarding conflicts of interest include the following:
- (i) Article 14 of Directive 2011/61/EU of the European Parliament and the Council of 8 June 2011 on Alternative Investment Fund Managers and amending Directives 2003/41/EC and 2009/65/EC and Regulations (EC) No. 1060/2009 and (EU) No. 1095/2010<sup>6</sup>;
  - (ii) Articles 12(1)(b) and 14(1)(d) of Directive 2009/65/EC of the European Parliament and of the Council of 13 July 2009 on the coordination of laws, regulations and administrative provisions relating to undertakings for collective investment in transferable securities (UCITS)<sup>5</sup>, and the relevant implementing rules and technical standards under that Directive;
  - (iii) Article 23 of Directive 2014/65/EU of the European Parliament and of the Council of 15 May 2014 on markets in financial instruments and amending Directive 2002/92/EC and Directive 2011/61/EU (recast)<sup>2</sup>.

(8) Where an asset manager implements an engagement policy on behalf of a relevant institutional investor, and such implementation involves the casting of a vote by that asset manager on behalf of the relevant institutional investor, the relevant institutional investor shall publicly disclose where the asset manager has published information regarding the casting of that vote.

(9) A requirement in this section to publicly disclose any matter shall be read as a requirement to make the matter available free of charge on the website of the relevant institutional investor that is subject to the requirement.

### **Engagement policy - asset managers**

**1110H.** (1) Subject to subsection (2), a relevant asset manager shall develop and publicly disclose an engagement policy in accordance with this section.

(2) A relevant asset manager who does not develop and publicly disclose an engagement policy in accordance with this section shall publicly disclose a clear and reasoned explanation for its failure to do so.

(3) The engagement policy developed under subsection (1) shall describe how the relevant asset manager -

- (a) integrates shareholder engagement in its investment strategy,
- (b) monitors investee companies on relevant matters, including strategy, financial and non-financial performance and risk, capital

structure, social and environmental impact and corporate governance,

- (c) conducts dialogues with investee companies,
- (d) exercises voting rights and other rights attached to shares,
- (e) cooperates with other shareholders,
- (f) communicates with relevant stakeholders of the investee companies, and
- (g) manages actual and potential conflicts of interest in relation to its engagement.

(4) Subject to subsections (5) and (6), a relevant asset manager that has developed an engagement policy in accordance with this section shall, on an annual basis, publicly disclose how its engagement policy has been implemented, in a manner that includes -

- (a) a general description of voting behaviour,
- (b) an explanation of the most significant votes taken,
- (c) information on the use, if any, of the services of proxy advisors, and
- (d) information on how it has cast votes in the general meetings of companies in which it holds shares.

(5) A disclosure under subsection (4) may exclude information regarding votes that are insignificant due to the subject matter of the vote or the size of the holding in the company in question.

(6) Where a relevant asset manager does not, in a given year, publicly disclose how its engagement policy has been implemented in accordance with subsection (4), the relevant asset manager shall publicly disclose a clear and reasoned explanation for its failure to do so.

(7) (a) Rules that apply to a relevant asset manager regarding conflicts of interest shall also apply to a relevant asset manager regarding the engagement activities.

- (b) For the purposes of paragraph (a), rules that apply to a relevant asset manager regarding conflicts of interest include the following:

- (i) Article 14 of Directive 2011/61/EU of the European Parliament and the Council of 8 June 2011 on Alternative Investment Fund Managers and amending Directives 2003/41/EC and 2009/65/EC and Regulations (EC) No. 1060/2009 and (EU) No. 1095/2010<sup>6</sup>;



- (ii) Article 12(1)(b) and 14(1)(d) of Directive 2009/65/EC of the European Parliament and of the Council of 13 July 2009 on the coordination of laws, regulations and administrative provisions relating to undertakings for collective investment in transferable securities (UCITS)<sup>5</sup>, and the relevant implementing rules and technical standards under that Directive;
- (iii) Article 23 of Directive 2014/65/EU of the European Parliament and of the Council of 15 May 2014 on markets in financial instruments and amending Directive 2002/92/EC and Directive 2011/61/EU (recast)<sup>2</sup>.

(8) A requirement in this section to publicly disclose any matter shall be read as a requirement to make the matter available free of charge on the website of the relevant asset manager that is subject to the requirement.

### **Investment strategy of institutional investors and arrangements with asset managers**

**1110L.** (1) A relevant institutional investor shall publicly disclose how the main elements of its equity investment strategy are consistent with the profile and duration of its liabilities, in particular its long-term liabilities, and such disclosure shall include how those elements contribute to the medium to long-term performance of its assets.

(2) Where an asset manager invests on behalf of a relevant institutional investor, whether on a discretionary client-by-client basis or through a collective investment undertaking, the relevant institutional investor shall publicly disclose the following information regarding its arrangement with the asset manager:

- (a) how that arrangement incentivises the asset manager to align its investment strategy and decisions with the profile and duration of the liabilities of the relevant institutional investor, in particular long-term liabilities;
- (b) how that arrangement incentivises the asset manager to -
  - (i) make investment decisions based on assessments about the medium to long-term financial and non-financial performance of the investee company, and
  - (ii) engage with investee companies in order to improve their performance in the medium to long term;
- (c) how the method and time horizon of the evaluation of the asset manager's performance and the remuneration for asset management services -
  - (i) are in line with the profile and duration of the liabilities of the relevant institutional investor, in particular the long-term liabilities, and

- (ii) take absolute long-term performance into account;
- (d) how the relevant institutional investor monitors portfolio turnover costs incurred by the asset manager and how it defines and monitors a targeted portfolio turnover or turnover range;
- (e) the duration of the arrangement with the asset manager.

(3) Where the public disclosure under subsection (2) does not contain all of the elements specified in paragraphs (a) to (e) of that subsection, the relevant institutional investor shall publicly disclose a clear and reasoned explanation as to why such elements are not included.

(4) A requirement in this section to publicly disclose any matter shall be read as a requirement to -

- (a) make the matter available free of charge on the website of the person that is subject to the requirement, and
- (b) update the matter on an annual basis, unless there is no material change to the matter since it was last updated.

(5) An institutional investor that is regulated by Directive 2009/138/EC of the European Parliament and of the Council of 25 November 2009 on the taking-up and pursuit of the business of Insurance and Reinsurance (Solvency II) (recast)<sup>11</sup> may include the information referred to in subsections (1) and (2) in its report on solvency and financial condition under Chapter 3 of Part 4 of the European Union (Insurance and Reinsurance) Regulations 2015 (S.I. No. 485 of 2015).

### **Transparency of asset managers**

**1110J.** (1) Subject to subsection (4), where an asset manager that is a relevant asset manager has entered into an arrangement referred to in section 1110I(2), with an institutional investor, to invest on the institutional investor's behalf, the relevant asset manager shall disclose, on an annual basis and complying with subsections (2) and (3), to the institutional investor how its investment strategy and implementation thereof -

- (a) complies with that arrangement, and
- (b) contributes to the medium to long-term performance of the assets of the institutional investor or of a fund managed by the institutional investor.

(2) The disclosure referred to in subsection (1) shall include reporting on -

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<sup>11</sup> OJ No. L 335, 17.12.2009, p. 1

- (a) the key material medium to long-term risks associated with the investments,
- (b) portfolio composition,
- (c) turnover and turnover costs,
- (d) the use of proxy advisors for the purpose of engagement activities, and
- (e) the asset manager's policy on securities lending and how it is applied to engagement activities, if applicable, particularly at the time of the general meeting of the investee companies.

(3) The disclosure referred to in subsection (1) shall also include information on -

- (a) whether and, if so, how the relevant asset manager makes investments decisions based on its evaluation of medium to long-term performance of the investee company, including non-financial performance, and
- (b) whether and, if so, which conflicts of interest have arisen in connection with engagement activities and how the asset manager has dealt with them.

(4) Where the information to be disclosed in accordance with subsections (1) to (3) is publicly available, the relevant asset manager shall not be required to provide that information to the institutional investor directly.

### **Transparency of proxy advisors**

**1110K.** (1) Where a relevant proxy advisor applies a code of conduct, it shall publicly disclose, on an annual basis -

- (a) a reference to the code of conduct, and
- (b) a report on its application of the code of conduct.

(2) Where a relevant proxy advisor does not apply a code of conduct, the relevant proxy advisor shall, on an annual basis, publicly disclose a clear and reasoned explanation for its failure to do so.

(3) Where a relevant proxy advisor applies a code of conduct but departs from it, the relevant proxy advisor shall publicly disclose, on an annual basis -

- (a) the ways in which the code of conduct was departed from,

- (b) an explanation for the departure from the code of conduct, and
- (c) any alternative measures adopted by the relevant proxy advisor.

(4) (a) Subject to paragraph (c), a relevant proxy advisor shall publicly disclose the following information in relation to the preparation of its research, advice and voting recommendations:

- (i) the essential features of the methodologies and models applied;
- (ii) the main information sources used;
- (iii) the procedures put in place to ensure the quality of the research, advice and voting recommendations and qualifications of the staff involved;
- (iv) whether and, if so, how the relevant proxy advisor took national market, legal, regulatory and company-specific conditions into account;
- (v) the essential features of the voting policies applied for each market;
- (vi) whether the relevant proxy advisor has dialogues with the companies, and the stakeholders of the companies, which are the object of the relevant proxy advisor's research, advice or voting recommendations and the extent and nature of those dialogues;
- (vii) the policy regarding the prevention and management of potential conflicts of interest.

- (b) The information specified in this subsection shall be made publicly available throughout a period of at least 3 years from the date of publication.
- (c) Where the information specified in this subsection forms part of a public disclosure under subsections (1) to (3), the relevant proxy advisor may elect not to disclose that information separately under this subsection.

(5) A relevant proxy advisor shall identify and, as soon as practicable, disclose to its clients -

- (a) any actual or potential conflicts of interest or business relationships that may influence the preparation of the relevant proxy advisor's research, advice or voting recommendations, and

- (b) the actions the relevant proxy advisor has undertaken to eliminate, mitigate or manage the actual or potential conflicts of interest.

(6) A requirement in this section to publicly disclose any matter shall be read as a requirement to make the matter available free of charge on the website of the relevant proxy advisor that is subject to the requirement.

(7) In this section, 'relevant proxy advisor' means a proxy advisor -

- (a) that provides services to shareholders with respect to shares that are admitted to trading on a regulated market in any Member State, and
- (b) in respect of which the competent Member State, within the meaning of Article 1(2)(b) of the Shareholders' Rights Directive, is the State.

## CHAPTER 8C

### *Remuneration policy, remuneration report and transparency and approval of related party transactions*

#### **Interpretation and application (Chapter 8C)**

**1110L.** (1) In this Chapter and Schedule 21 -

‘General Data Protection Regulation’ means Regulation (EU) 2016/679 of the European Parliament and of the Council of 27 April 2016 on the protection of natural persons with regard to the processing of personal data and on the free movement of such data, and repealing Directive 95/46/EC (General Data Protection Regulation)<sup>7</sup>;

‘personal data’ has the meaning assigned to it in the General Data Protection Regulation;

‘special categories of personal data’ has the meaning assigned to it in the General Data Protection Regulation;

‘traded PLC’ has the meaning assigned to it by section 1099(4).

(2) A word or expression that is used in this Chapter and is also used in the Shareholders' Rights Directive has, unless the context otherwise requires, the same meaning in this Chapter as it has in that Directive.

#### **Right to vote on remuneration policy**

**1110M.** (1) A traded PLC shall -

- (a) prepare a policy regarding the remuneration of its directors in accordance with subsection (6) (in this section referred to as a ‘remuneration policy’), and
- (b) cause a vote on the remuneration policy (in this section referred to as a ‘remuneration vote’) to be held at a general meeting of the traded PLC.

(2) Subject to any provision of the traded PLC’s constitution making a remuneration vote binding on the traded PLC (in this section referred to as a ‘binding vote’), a remuneration vote shall be advisory (in this section referred to as an ‘advisory vote’).

(3) (a) Subject to subsection (8), where a remuneration policy is approved by a binding vote, the traded PLC shall pay remuneration to its directors in accordance with the remuneration policy to which that vote related.

(b) Where a binding vote is held on a remuneration policy, and the remuneration policy is not approved by that vote, the traded PLC shall –

(i) prepare a revised remuneration policy and cause a remuneration vote to be held in respect of the revised remuneration policy at the following general meeting, and

(ii) subject to subsection (8), until such time as the remuneration vote referred to in subparagraph (i) is held -

(I) where the traded PLC has previously approved a remuneration policy by a binding vote, pay its directors in accordance with that remuneration policy, or

(II) where the traded PLC has not previously approved a remuneration policy by a binding vote, pay its directors in accordance with its existing practices.

(4) (a) Subject to subsection (8), following an advisory vote, and regardless of the outcome of the vote, a traded PLC shall pay its directors in accordance with -

(i) the remuneration policy to which that vote related, or

(ii) a remuneration policy that has previously been approved by a remuneration vote.

(b) Where an advisory vote is held on a remuneration policy, and the remuneration policy is not approved by that vote, the traded PLC shall prepare a revised remuneration policy and hold a remuneration vote in respect of that revised policy at the following general meeting.

(5) (a) Subject to paragraph (b) of subsection (4), and paragraphs (b) and (c), a traded PLC shall hold a remuneration vote at least once every 4 years.

(b) Where, on or before the date on which the European Union (Shareholders' Rights) Regulations 2020 come into operation, a traded PLC has –

(i) prepared a policy regarding the remuneration of its directors, regardless of whether or not that policy complies with the requirements of subsection (6), and

- (ii) approved the policy referred to in paragraph (i) in general meeting of the traded PLC, the traded PLC shall not be required to hold a remuneration vote until a period of 4 years has elapsed from the date on which the approval mentioned in subparagraph (ii) was given.
  - (c) Notwithstanding any provision of this subsection, a traded PLC shall cause a remuneration vote to be held in respect of every material change to the traded PLC's remuneration policy, or to a policy referred to in paragraph (b).
- (6) The remuneration policy shall -
- (a) explain how it contributes to the traded PLC's business strategy and long-term interests and sustainability,
  - (b) be clear and understandable,
  - (c) describe the different components of fixed and variable remuneration, including all bonuses and other benefits in whatever form, which can be awarded to directors, and indicate their relative proportion,
  - (d) explain how, if at all, the pay and employment conditions of employees of the traded PLC were taken into account when establishing the remuneration policy,
  - (e) set clear, comprehensive and varied criteria for the award of variable remuneration awarded by the traded PLC, if any,
  - (f) specify information on any deferral periods and on the possibility for the traded PLC to reclaim the variable remuneration referred to in paragraph (e),
  - (g) indicate financial and non-financial performance criteria, including, where appropriate, criteria relating to corporate social responsibility, and explain how they contribute to the traded PLC's business strategy and long-term interests and sustainability,
  - (h) indicate the methods applied, or to be applied, to determine the extent to which the performance criteria referred to in paragraph (g) have been fulfilled,
  - (i) where the traded PLC awards remuneration in the form of, or based on, shares, specify vesting periods and, where applicable, retention of shares after vesting and explain how the share-based remuneration contributes to the traded PLC's business strategy and long-term interests and sustainability,
  - (j) indicate the duration of the contracts or arrangements with directors and the applicable notice periods, the main characteristics of supplementary pension or early retirement



schemes and the terms of the termination and payments linked to termination,

- (k) explain the decision-making process followed for its determination, review and implementation, including measures to avoid or manage conflicts of interest and, where applicable, the role of a remuneration committee or other committees concerned,
- (l) describe and explain all significant changes, if any, as against the traded PLC's previous remuneration policy,
- (m) describe and explain how the remuneration policy takes into account –
  - (i) the votes and views of shareholders on the policy, and
  - (ii) any remuneration reports since the most recent vote on the remuneration policy, and
- (n) set out the elements, if any, of the policy from which the traded PLC may derogate in accordance with subsection (8), and the procedural conditions required for such a derogation.

(7) (a) A traded PLC shall, as soon as practicable after the holding of a remuneration vote, publish on its website, free of charge -

- (i) the remuneration policy to which the vote related,
  - (ii) the date of the remuneration vote, and
  - (iii) the results of the remuneration vote in accordance with section 1110.
- (b) Where a remuneration policy is approved by a remuneration vote, the traded PLC shall maintain the information published under paragraph (a) on its website, free of charge, for as long as the remuneration policy to which the vote related is applicable.

(8) Notwithstanding any other provision of this section, a traded PLC may temporarily derogate from its remuneration policy where -

- (a) doing so is necessary in exceptional circumstances, to serve the long-term interests and sustainability of the traded PLC as a whole or to assure its viability, and
- (b) the derogation is in accordance with the procedural conditions and other provisions on derogation set out in the remuneration policy.

(9) In this section, a reference to ‘director’ includes, in addition to the meaning assigned to that expression by section 2(1), a reference to -

- (a) a chief executive officer of a traded PLC, and
- (b) a deputy chief executive officer of a traded PLC,

where such positions exist in relation to a traded PLC and by whatever name called.

(10) This section applies, in so far as it relates to a traded PLC, to the traded PLC’s financial years commencing on or after 10 June 2019.

### **Remuneration report**

**1110N.** (1) A traded PLC shall prepare a report in accordance with this section providing a comprehensive overview of the remuneration awarded or due, during the most recent financial year, to all of its directors in accordance with a remuneration policy prepared under section 1110M (referred to in this section as a ‘remuneration report’).

(2) The remuneration report shall be clear and understandable and, where applicable, contain the following information regarding each director’s remuneration:

- (a) the total remuneration broken down into its various components;
- (b) the relative proportion of fixed and variable remuneration;
- (c) an explanation of how the total remuneration complies with the adopted remuneration policy, including how it contributes to the long-term performance of the traded PLC;
- (d) information on the application of performance criteria;
- (e) the annual change of -
  - (i) remuneration,
  - (ii) the performance of the traded PLC, and
  - (iii) average remuneration, on a full-time equivalent basis, of employees of the traded PLC other than directors over the 5 most recent financial years since the coming into operation of the European Union (Shareholders’ Rights) Regulations 2020, or the 5 most recent financial years in respect of which such information is available,

presented together in a manner which permits comparison;

- (f) any remuneration from any undertaking belonging to the same group, as defined in section 274(1);
- (g) the number of shares and share options granted or offered, as well as the main conditions for the exercise of the rights including the exercise price and date and any change thereof;
- (h) information on the use of the possibility to reclaim variable remuneration;
- (i) information on any deviations from the procedure for the implementation of the remuneration policy referred to in section 1110M;
- (j) information on any derogations from the remuneration policy availed of under section 1110M(8), including an explanation of the exceptional circumstances in question and an indication of the specific elements derogated from.

(3) A traded PLC shall not include in the remuneration report -

- (a) special categories of personal data of individual directors, or
- (b) personal data relating to the family situation of individual directors.

(4) Subject to subsection (5), a traded PLC may process the personal data of directors, which are included in the remuneration report in accordance with this section, for the purpose of increasing corporate transparency as regards directors' remuneration with a view to enhancing directors' accountability and shareholder oversight over directors' remuneration.

(5) Without prejudice to any longer period laid down by any applicable provision of European Union law, a traded PLC shall not make the personal data of directors included in a remuneration report pursuant to subsection (4) publicly available after a period of 10 years from the publication of the remuneration report has expired.

(6) A traded PLC shall cause a vote to be held in general meeting on the remuneration report prepared in respect of the most recent financial year.

(7) When a vote is held under subsection (6), the traded PLC shall explain in the first remuneration report prepared after the vote how that vote has been taken into account.

(8) (a) Subject to paragraph (b), after a general meeting at which a vote under subsection (6) is held, the traded PLC shall make the remuneration report to which the vote related publicly available on its website, free of charge, for a period of 10 years.

- (b) A traded PLC may keep the remuneration report publicly available on its website for a period longer than 10 years provided that the report does not contain the personal data of directors.

(9) The statutory auditors of a traded PLC, when preparing the report required by section 391 in respect of the traded PLC, shall ascertain whether the traded PLC has, in respect of the financial year immediately preceding the financial year that is the subject of the report, provided the information required under this section and, where the traded PLC has not provided the information required by this section, the statutory auditors shall state that fact in the report.

(10) (a) The directors of a traded PLC shall ensure that the remuneration report is prepared and published in accordance with this section.

- (b) Notwithstanding section 1110L(2), in this subsection 'directors' shall be interpreted in accordance with section 2(1).

(11) In this section -

- (a) other than in subsection (10), a reference to 'director' includes, in addition to the meaning assigned to that expression by section 2(1), a reference to -
  - (i) a former director,
  - (ii) a chief executive officer, where such a position exists in relation to a traded PLC and by whatever name called, and
  - (iii) a deputy chief executive officer, where such a position exists in relation to a traded PLC and by whatever name called, and
- (b) a reference to 'remuneration awarded or due' includes a reference to all benefits in whatever form awarded or due.

(12) This section, in so far as it relates to a traded PLC, applies to the traded PLC's financial years commencing on or after 10 June 2019.

### **Transparency and approval of related party transactions**

**1110O.** (1) Subject to subsection (5), when entering into a material transaction with a related party, a traded PLC shall publicly announce the transaction no later than at the conclusion of the transaction.

(2) An announcement under subsection (1) shall contain -

- (a) information on the nature of the related party relationship,
- (b) the name of the related party,
- (c) the date and the value of the transaction, and

- (d) any other information necessary to assess whether or not the transaction is fair and reasonable from the perspective of the traded PLC and of the shareholders who are not a related party, including minority shareholders.

(3) (a) Subject to subsections (4) and (5), a traded PLC shall not enter into a material transaction with a related party without the transaction being approved, prior to the conclusion of the transaction, by a resolution of the traded PLC in general meeting.

- (b) A traded PLC shall ensure that the approval under paragraph (a) is carried out in a way that –

- (i) prevents the related party from taking advantage of its position, and
- (ii) provides adequate protection for the interests of the traded PLC and of any shareholder who is not a related party, including minority shareholders.

(4) Where a related party transaction entered into, or to be entered into, by a traded PLC involves a shareholder of the traded PLC, that shareholder shall not take part in the approval referred to in subsection (3).

- (5) (a) Subsections (1) to (3) shall not apply to -

- (i) a transaction entered into in the ordinary course of business and concluded on normal market terms,
- (ii) transactions entered into between a traded PLC and its subsidiary, or a number of its subsidiaries, provided that -
  - (I) the subsidiary or subsidiaries are wholly owned by the traded PLC, or
  - (II) no related party of the traded PLC has an interest in the subsidiary or subsidiaries, as the case may be,
- (iii) transactions regarding remuneration of directors, or certain elements of remuneration of directors, awarded or due in accordance with section 1110M, or
- (iv) transactions offered to all shareholders on the same terms where equal treatment of all shareholders and protection of the interests of the traded PLC are ensured.

- (b) In subparagraph (iii) of paragraph (a), ‘director’ has the same meaning as it has in section 1110M.

(6) (a) The directors of a traded PLC shall, as soon as practicable, establish an internal procedure to assess whether or not transactions are entered into in the ordinary course of business and concluded on normal market terms for the purposes of paragraph (5)(a)(i).

- (b) A related party shall not take part in an assessment under this subsection.
- (c) Notwithstanding section 1110L(2), in this subsection ‘directors’ shall be interpreted in accordance with section 2(1).

(7) When a related party of a traded PLC enters into a material transaction with a subsidiary of that traded PLC, the traded PLC shall publicly announce the material transaction no later than at the conclusion of the transaction.

(8) A traded PLC shall ensure that all transactions with the same related party that have been concluded -

- (a) in any 12-month period, or
- (b) in the same financial year,

are aggregated for the purposes of assessing if the transactions, when aggregated, constitute a material transaction.

(9) This section is without prejudice to the rules on public disclosure of inside information as referred to in Article 17 of 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/EC<sup>12</sup>.

(10) This section is in addition to, and not in substitution for, the provisions of this Act, or the general law, that constrain, in certain circumstances, dealings in property of a company and that provide for remedies in certain cases where those constraints are not observed.

(11) In this section -

‘class test’ means any one of the 4 tests set out in Schedule 21;

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<sup>12</sup> OJ No. L 173, 12.6.2014, p.1

‘material transaction’ means a transaction in which any percentage ratio, calculated in accordance with one or more class tests, is 5% or more;

‘percentage ratio’ means, in relation to a transaction, a figure, expressed as a percentage, that results from applying a calculation under a class test to the transaction;

‘related party transaction’ means a transaction between a traded PLC and its related party.

**CHAPTER 8D**  
*Offences and penalties*

**Offences and penalties**

**1110P.** (1) Where a person fails to comply with any of the following provisions, that person and, where that person is a company, the company and any officer of it who is in default, shall be guilty of a category 3 offence:

- (a) subsection (3) or (4) of section 1103 (subject to subsection (2));
- (b) subsection (3) of section 1110;
- (c) subsection (2), (3) or (5) of section 1110B;
- (d) subsection (1), (2) or (4) of section 1110C;
- (e) subsection (1), (2), (3), (4) or (5) of section 1110D;
- (f) subsection (1) or (2) of section 1110E;
- (g) subsection (2), (6) or (8) of section 1110G;
- (h) subsection (2) or (6) of section 1110H;
- (i) subsection (1), (2) or (3) of section 1110I;
- (j) subsection (1) of section 1110J;
- (k) subsection (2), (3), (4) or (5) of section 1110K;
- (l) subsection (1), (3), (4), (5)(a) or (c) or (7) of section 1110M;
- (m) subsection (1), (6), (7) or (8) of section 1110N;
- (n) subsection (1), (2), (3), (4), (7) or (8) of section 1110O.

(2) A person who fails to comply with paragraph (3)(e) of section 1103 does not commit an offence where that person has complied with subsection (5) of that section.”.

*Amendment of Principal Act - insertion of Schedule 21*

8. The Principal Act is amended by the insertion of the text set out in the Schedule as Schedule 21 to that Act.



## SCHEDULE

### “Schedule 21

#### *Section 11100*

#### **Class tests**

#### **Gross Assets Test**

1. (1) The gross assets test is calculated by dividing the gross assets the subject of a transaction by the gross assets of the traded PLC entering into the transaction.

(2) The gross assets of the traded PLC means the total non-current assets, plus the total current assets, of the traded PLC.

(3) For -

- (a) an acquisition of an interest in an undertaking which will result in consolidation of the gross assets of that undertaking in the financial statements of the traded PLC, or
- (b) a disposal of an interest in an undertaking which will result in the assets of that undertaking no longer being consolidated in the financial statements of the traded PLC,

the gross assets the subject of the transaction means the value of 100% of that undertaking's assets irrespective of what interest is acquired or disposed of.

(4) For an acquisition or disposal of an interest in an undertaking which does not fall within paragraph (3), the gross assets the subject of the transaction means -

- (a) for an acquisition, the consideration together with liabilities assumed, if any, and
- (b) for a disposal, the assets attributed to that interest in the traded PLC's accounts.

(5) If there is an acquisition of assets other than an interest in an undertaking, the assets the subject of the transaction means the consideration or, if greater, the book value of those assets as they will be included in the traded PLC's financial statements.

### **Profits Test**

2. (1) The profits test is calculated by dividing the profits attributable to the assets which are the subject of the transaction by the profits of the traded PLC.

(2) For the purposes of paragraph (1), profits means -

- (a) profits after deducting all charges except taxation, and
- (b) for an acquisition or disposal of an interest in an undertaking referred to in paragraphs 1(3)(a) or (b), 100% of the profits of the undertaking (irrespective of what interest is acquired or disposed of).

(3) In calculating the profits test, the losses of the traded PLC or target undertaking shall be included.

### **Consideration Test**

3. (1) The consideration test is calculated by taking the consideration for the transaction as a percentage of the aggregate market value of all the ordinary shares (excluding treasury shares) of the traded PLC.

(2) For the purposes of paragraph (1) -

- (a) the consideration is the amount paid to the contracting party,
- (b) if all or part of the consideration is in the form of securities to be traded on a market, the consideration attributable to those securities is the aggregate market value of those securities, and
- (c) if deferred consideration is or may be payable or receivable by the traded PLC in the future, the consideration is the maximum total consideration payable or receivable under the agreement.

(3) For the purposes of paragraph (2)(b) the figures used to determine consideration consisting of -

- (a) securities of a class already listed, shall be the aggregate market value of all those securities on the last business day before the announcement under section 1110O(1), and
- (b) a new class of securities for which an application for listing will be made, shall be the expected aggregate market value of all those securities.

(4) For the purposes of paragraph (1), the figure used to determine aggregate market value is the aggregate market value of all the ordinary shares (excluding treasury shares) of the traded PLC at the close of business on the last business day immediately before the announcement under section 1110O(1).

### **Gross Capital Test**

4. (1) The gross capital test is calculated by dividing the gross capital of the undertaking being acquired by the gross capital of the traded PLC.

(2) For the purposes of paragraph (1), the gross capital of the company or business being acquired means the aggregate of -

- (a) the consideration (as calculated under the Consideration Test),
- (b) if a company, any of its shares and debt securities which are not being acquired,
- (c) all other liabilities (other than current liabilities) including minority interests and deferred taxation, and
- (d) any excess of current liabilities over current assets.

(3) For the purposes of paragraph (1) the gross capital of the traded PLC means the aggregate of -

- (a) the market value of its shares (excluding treasury shares) and the issue amount of the debt security,
- (b) all other liabilities (other than current liabilities) including minority interests and deferred taxation, and
- (c) any excess of current liabilities over current assets.

(4) For the purposes of paragraph (1) -

- (a) figures used must be, for shares and debt security aggregated for the purposes of the gross capital percentage ratio, the aggregate market value of all those shares (or if not available before the announcement, their nominal value) and the issue amount of the debt security, and
- (b) for shares and debt security aggregated for the purposes of paragraph (3)(b) above, any treasury shares held by the company are not to be taken into account.”.



GIVEN under the Official Seal of the Minister Business,  
Enterprise and Innovation,  
13 March, 2020.

HEATHER HUMPHREYS,  
Minister for Business, Enterprise and Innovation.

EXPLANATORY NOTE

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

These Regulations give effect to the provisions of Directive EU 2017/828 of the European Parliament and of the Council of 17 May 2017 amending Directive 2007/36/EC as regards the encouragement of long-term shareholder engagement. The Regulations insert several Chapters into Part 17 of the Companies Act 2014 dealing with the subject matter of the Directive. Certain provisions relate to transparency requirements for institutional investors, asset managers, and proxy advisors.

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