Regulation (EU) 2017/1129 of the European Parliament and of the Council

of 14 June 2017

on the prospectus to be published when securities are offered to the public or admitted to trading on a regulated market, and repealing Directive 2003/71/EC

(Text with EEA relevance)

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THE EUROPEAN PARLIAMENT AND THE COUNCIL OF THE EUROPEAN UNION,

Having regard to the Treaty on the Functioning of the European Union, and in particular Article 114 thereof,

Having regard to the proposal from the European Commission,

After transmission of the draft legislative act to the national parliaments,

Having regard to the opinion of the European Central Bank,

Having regard to the opinion of the European Economic and Social Committee,

After consulting the Committee of the Regions,

Acting in accordance with the ordinary legislative procedure,

Whereas:

(1) This Regulation constitutes an essential step towards the completion of the Capital Markets Union as set out in the Communication of the Commission of 30 September 2015, entitled 'Action Plan on Building a Capital Markets Union'. The aim of the Capital Markets Union is to help businesses tap into more diverse sources of capital from anywhere within the European Union ('the Union'), make markets work more efficiently and offer investors and savers additional opportunities to put their money to work, in order to enhance growth and create jobs.

(2) Directive 2003/71/EC of the European Parliament and of the Council laid down harmonised principles and rules on the prospectus to be drawn up, approved and published when securities are offered to the public or admitted to trading on a regulated market. Given the legislative and market developments since its entry into force, that Directive should be repealed and replaced by this Regulation.

(3) Disclosure of information in cases of offers of securities to the public or admission of securities to trading on a regulated market is vital to protect investors by removing asymmetries of information between them and issuers. Harmonising such disclosure allows for the establishment of a cross-border passport mechanism which facilitates the effective functioning of the internal market in a wide variety of securities.

(4) Divergent approaches would result in fragmentation of the internal market since issuers, offerors and persons asking for admission to trading on a regulated market would be subject to different rules in different Member States and prospectuses approved in one Member State could be prevented from being used in other Member States. In the absence of a harmonised framework to ensure uniformity of disclosure and the functioning of the passport in the Union it is therefore likely that differences in Member States' laws would create obstacles to the smooth functioning of the internal market for securities. Therefore, to ensure the proper functioning of the internal market and improve the conditions of its functioning, in particular with regard to capital markets, and to guarantee a high level of consumer and investor protection, it is appropriate to lay down a regulatory framework for prospectuses at Union level.

(5) It is appropriate and necessary for the rules on disclosure when securities are offered to the public or admitted to trading on a regulated market to take the legislative form of a regulation in order to ensure that provisions directly imposing obligations on persons involved in offers of securities to the public and in admissions of securities to trading on a regulated market are applied in a uniform manner throughout the Union. Since a legal framework for the provisions on prospectuses necessarily involves measures specifying precise requirements for all different aspects inherent to prospectuses, even small divergences on the approach taken regarding one of those aspects could result in significant impediments to cross-border offers of securities, to multiple listings on regulated markets and to Union consumer protection rules. Therefore, the use of a regulation, which is directly applicable without requiring national law, should reduce the possibility of divergent measures being taken at national level, and should ensure a consistent approach, greater legal certainty and prevent such significant impediments. The use of a regulation will also strengthen confidence in the transparency of markets across the Union, and reduce regulatory complexity as well as search and compliance costs for companies.

(6) The assessment of Directive 2010/73/EU of the European Parliament and of the Council has revealed that certain changes introduced by that Directive have not met their original objectives and that further amendments to the prospectus regime in the Union are necessary to simplify and improve its application, increase its efficiency and enhance the international competitiveness of the Union, thereby contributing to the reduction of administrative burdens.

(7) The aim of this Regulation is to ensure investor protection and market efficiency, while enhancing the internal market for capital. The provision of information which, according to the nature of the issuer and of the securities, is necessary to enable investors to make an informed investment decision ensures, together with rules on the conduct of business, the protection of investors. Moreover, such information provides an effective means of increasing confidence in securities and thus of contributing to the proper functioning and development of securities markets. The appropriate way to make that information available is to publish a prospectus.

(8) The disclosure requirements of this Regulation do not prevent a Member State or a competent authority or an exchange, through its rulebook, from imposing other particular requirements in the context of the admission to trading of securities on a regulated market, notably regarding corporate governance. Such requirements should not directly or indirectly restrict the drawing up, the content and the dissemination of a prospectus approved by a competent authority.

(9) Non-equity securities issued by a Member State or by one of a Member State's regional or local authorities, by public international bodies of which one or more Member States are members, by the European Central Bank or by the central banks of the Member States should not be covered by this Regulation and thus should remain unaffected by this Regulation.

(10) The obligation to publish a prospectus should apply to both equity and non-equity securities offered to the public or admitted to trading on regulated markets in order to ensure investor protection. Some of the securities covered by this Regulation entitle the holder to acquire transferable securities or to receive a cash amount through a cash settlement determined by reference to other instruments, notably transferable securities, currencies, interest rates or yields, commodities or other indices or measures. This Regulation covers in particular warrants, covered warrants, certificates, depositary receipts and convertible notes, such as securities convertible at the option of the investor.

(11) To ensure the approval and passporting of the prospectus as well as the supervision of compliance with this Regulation, a competent authority needs to be identified for each prospectus. Thus, this Regulation should clearly determine the home Member State best placed to approve the prospectus.

(12) For offers of securities to the public with a total consideration in the Union of less than EUR 1 000 000, the cost of producing a prospectus in accordance with this Regulation is likely to be disproportionate to the envisaged proceeds of the offer. It is therefore appropriate that the obligation to draw up a prospectus under this Regulation should not apply to offers of such small scale. Member States should not extend the obligation to draw up a prospectus in accordance with this Regulation to offers of securities to the public with a total consideration below that threshold. However, Member States should be able to require other disclosure requirements at national level to the extent that such requirements do not constitute a disproportionate or unnecessary burden in relation to such offers of securities.

(13) Furthermore, in view of the varying sizes of financial markets across the Union, it is appropriate to give Member States the option of exempting offers of securities to the public not exceeding EUR 8 000 000 from the obligation to publish a prospectus as provided for in this Regulation. In particular, Member States should be free to set out in their national law a threshold between EUR 1 000 000 and EUR 8 000 000, expressed as the total consideration of the offer in the Union over a period of 12 months, below which the exemption should apply taking into account the level of domestic investor protection they deem to be appropriate. However, such exempted offers of securities to the public should not benefit from the passporting regime under this Regulation. Below that threshold, Member States should be able to require other disclosure requirements at national level to the extent that such requirements do not constitute a disproportionate or unnecessary burden in relation to such exempted offers of securities. Nothing in this Regulation should prevent those Member States from introducing rules at national level which allow the operators of multilateral trading facilities (MTFs) to determine the content of the admission document which an issuer is required to produce upon initial admission to trading of its securities or the modalities of its review.

(14) The mere admission of securities to trading on a MTF or the publication of bid and offer prices is not to be regarded in itself as an offer of securities to the public and is therefore not subject to the obligation to draw up a prospectus under this Regulation. A prospectus should only be required where those situations are accompanied by a communication constituting an 'offer of securities to the public' as defined in this Regulation.

(15) Where an offer of securities is addressed exclusively to a restricted circle of investors who are not qualified investors, drawing up a prospectus represents a disproportionate burden in view of the small number of persons targeted by the offer, thus no prospectus should be required. That would apply for example in the case of an offer addressed to a limited number of relatives or personal acquaintances of the managers of a company.

(16) This Regulation should be interpreted in a manner consistent with Directive 2004/25/EC of the European Parliament and of the Council, where applicable, in the context of takeover bids, merger transactions and other transactions affecting the ownership or control of companies.

(17) Incentivising directors and employees to hold securities of their own company can have a positive impact on companies' governance and help create long-term value by fostering employees' dedication and sense of ownership, aligning the respective interests of shareholders and employees, and providing the latter with investment opportunities. Participation of employees in the ownership of their company is particularly important for small and medium-sized enterprises (SMEs), in which individual employees are likely to play a significant role in the success of the company. Therefore, there should be no obligation to publish a prospectus for offers made in the context of an employee-share scheme within the Union, provided a document is made available containing information on the number and nature of the securities and the reasons for and details of the offer or allotment, to safeguard investor protection. To ensure equal access to employee-share schemes for all directors and employees, independently of whether their employer is established in or outside the Union, no equivalence decision of third country markets should be required any longer, as long as such information document is made available. Thus, all participants in employee-share schemes will benefit from equal treatment and information.

(18) Dilutive issuances of shares or securities giving access to shares often indicate transactions with a significant impact on the issuer's capital structure, prospects and financial situation, for which the information contained in a prospectus is needed. In contrast, where an issuer has shares already admitted to trading on a regulated market, a prospectus should not be required for any subsequent admission of the shares of the same class on the same regulated market, including where such shares result from the conversion or exchange of other securities or from the exercise of the rights conferred by other securities, provided that the newly admitted shares represent a limited proportion in relation to shares of the same class already admitted to the same regulated market, unless such admission is combined with an offer of securities to the public falling within the scope of this Regulation. The same principle should apply more generally to securities fungible with securities already admitted to trading on a regulated market.

(19) This Regulation is without prejudice to the laws, regulations and administrative provisions adopted pursuant to Directive 2014/59/EU of the European Parliament and of the Council in relation to the resolution of credit institutions, in particular Articles 53(2), 59(2) and 63(1) and (2) thereof, in cases where there is no obligation to publish a prospectus.

(20) Exemptions from the obligation to publish a prospectus under this Regulation should be able to be combined for an offer of securities to the public and/or an admission to trading on a regulated market, where the conditions for those exemptions are fulfilled at the same time. For example, where an offer is addressed simultaneously to qualified investors, to non-qualified investors that commit to invest at least EUR 100 000 each, to the employees of the issuer and, in addition, to a limited number of non-qualified investors not exceeding the number set out in this Regulation, that offer should be exempt from the obligation to publish a prospectus.

(21) In order to ensure the proper functioning of the wholesale market for non-equity securities and increase market liquidity, it is important to set out a distinct alleviated treatment for non-equity securities admitted to trading on a regulated market and designed for qualified investors. Such alleviated treatment should comprise minimum information requirements that are less onerous than those applying to non-equity securities offered to retail investors, no requirement to include a summary in the prospectus, and more flexible language requirements. The alleviated treatment should be applicable to, firstly, non-equity securities, regardless of their denomination, which are traded only on a regulated market, or a specific segment thereof, to which only qualified investors can have access for the purposes of trading in such securities and, secondly, to non-equity securities with a denomination per unit of at least EUR 100 000, which reflects the higher investment capacity of the investors concerned by the prospectus. No resale to non-qualified investors should be allowed for non-equity securities that are traded only on a regulated market, or a specific segment thereof, to which only qualified investors can have access for the purposes of trading in such securities, unless a prospectus is drawn up in accordance with this Regulation that is appropriate for non-qualified investors. To that end, it is essential that market operators, when establishing such regulated markets, or a specific segment thereof,

do not allow direct or indirect access by non-qualified investors to that regulated market or specific segment.

(22) Where securities are allocated without an element of individual choice on the part of the recipient, including allocations of securities where there is no right to repudiate the allocation or where allocation is automatic following a decision by a court, such as an allocation of securities to existing creditors in the course of a judicial insolvency proceeding, such allocation should not qualify as an offer of securities to the public.

(23) Issuers, offerors or persons asking for the admission to trading on a regulated market of securities which are not subject to the obligation to publish a prospectus should benefit from the single passport where they choose to comply with this Regulation on a voluntary basis.

(24) In view of the specificities of different types of securities, issuers, offers and admissions, this Regulation sets out rules for different forms of prospectuses — a standard prospectus, a wholesale prospectus for non-equity securities, a base prospectus, a simplified prospectus for secondary issuances and an EU Growth prospectus. Therefore, all references to 'prospectus' under this Regulation are to be understood as referring to all those forms of prospectuses, unless explicitly stated otherwise.

(25) Disclosure provided by a prospectus should not be required for offers of securities to the public which are limited to qualified investors. In contrast, any resale to the public or public trading through admission to trading on a regulated market should require the publication of a prospectus.

(26) A valid prospectus, drawn up by the issuer or the person responsible for drawing up the prospectus and available to the public at the time of the final placement of securities through financial intermediaries or in any subsequent resale of securities, provides sufficient information for investors to make informed investment decisions. Therefore, financial intermediaries placing or subsequently reselling the securities should be entitled to rely upon the initial prospectus published by the issuer or the person responsible for drawing up the prospectus as long as it is valid and duly supplemented and the issuer or the person responsible for drawing up the prospectus consents to its use. The issuer or the person responsible for drawing up the prospectus should be allowed to attach conditions to such consent. The consent to use the prospectus, including any conditions attached thereto, should be given in a written agreement enabling assessment by relevant parties of whether the resale or final placement of securities complies with the agreement. In the event that consent to use the prospectus has been given, the issuer or person responsible for drawing up the initial prospectus should be liable for the information stated therein and in the case of a base prospectus, for providing and filing final terms and no other prospectus should be required. However, in the event that the issuer or the person responsible for drawing up such initial prospectus does not consent to its use, the financial intermediary should be required to publish a new prospectus. In that case, the financial intermediary should be liable for the information in the prospectus, including all information incorporated by reference and, in the case of a base prospectus, in the final terms.

(27) Harmonisation of the information contained in the prospectus should provide equivalent investor protection at Union level. In order to enable investors to make an informed investment decision, that information should be sufficient and objective and should be written and presented in an easily analysable, concise and comprehensible form. The information which is included in a prospectus should be adapted to the type of prospectus, the nature and circumstances of the issuer, the type of securities, and whether the investors targeted by the offer are solely qualified investors. A prospectus should not contain information which is not material or specific to the issuer and the securities concerned, as that could obscure the information relevant to the investment decision and thus undermine investor protection.

(28) The summary of the prospectus should be a useful source of information for investors, in particular retail investors. It should be a self-contained part of the prospectus and should focus on key information that investors need in order to be able to decide which offers and admissions to trading of securities they want to study further by reviewing the prospectus as a whole to take their decision. Such key information should convey the essential characteristics of, and risks associated with, the issuer, any guarantor, and the securities offered or admitted to trading on a regulated market. It should also provide the general terms and conditions of the offer.

(29) The presentation of risk factors in the summary should consist of a limited selection of specific risks which the issuer considers to be of most relevance to the investor when the investor is making an investment decision. The description of the risk factors in the summary should be of relevance to the specific offer and should be prepared solely for the benefit of investors and not give general statements on investment risk, or limit the liability of the issuer, offeror or any persons acting on their behalf. Those risk factors should, where applicable, highlight the risks, in particular for retail investors, in the

case of securities issued by credit institutions that are subject to bail-in under Directive 2014/59/EU.

(30) The summary of the prospectus should be short, simple and easy for investors to understand. It should be written in plain, non-technical language, presenting the information in an easily accessible way. It should not be a mere compilation of excerpts from the prospectus. It is appropriate to set a maximum length for the summary in order to ensure that investors are not deterred from reading it and to encourage issuers to select the information which is essential for investors. In certain circumstances set out in this Regulation, the maximum length of the summary should be extended.

(31) To ensure the uniform structure of the prospectus summary, general sections and sub-headings should be provided, with indicative contents which the issuer should fill in with brief, narrative descriptions including figures where appropriate. As long as they present it in a fair and balanced way, issuers should be given discretion to select the information that they deem to be material and meaningful.

(32) The prospectus summary should be modelled as much as possible on the key information document required under Regulation (EU) No 1286/2014 of the European Parliament and of the Council. Where securities fall under the scope of both this Regulation and Regulation (EU) No 1286/2014, full reuse in the summary of the contents of the key information document would minimise compliance costs and administrative burdens for issuers, and this Regulation therefore facilitates such reuse. The requirement to produce a summary should however not be waived when a key information document is required, as the latter does not contain key information on the issuer and the offer to the public or admission to trading on a regulated market of the securities concerned.

(33) No civil liability should be attached to any person solely on the basis of the summary, including any translation thereof, unless it is misleading, inaccurate or inconsistent with the relevant parts of the prospectus or where it does not provide, when read together with the other parts of the prospectus, key information in order to aid investors when considering whether to invest in such securities. The summary should contain a clear warning to that effect.

(34) Issuers which repeatedly raise financing on capital markets should be offered specific formats of registration documents and prospectuses as well as specific procedures for their filing and approval, in order to provide them with more flexibility and enable them to seize market windows. In any case, those formats and procedures should be optional and at the choice of issuers.

(35) For all non-equity securities, including those that are issued in a continuous or repeated manner or as part of an offering programme, issuers should be allowed to draw up a prospectus in the form of a base prospectus.

(36) It is appropriate to clarify that final terms to a base prospectus should contain only information relating to the securities note which is specific to the individual issue and which can be determined only at the time of the individual issue. Such information may, for example, include the international securities identification number (ISIN), the issue price, the date of maturity, any coupon, the exercise date, the exercise price, the redemption price and other terms not known at the time of drawing up the base prospectus. Where the final terms are not included in the base prospectus they should not have to be approved by the competent authority, but should only be filed with it. Other new information which is capable of affecting the assessment of the issuer and of the securities should be included in a supplement to the base prospectus. Neither the final terms nor a supplement should be used to include a type of securities not already described in the base prospectus.

(37) Under a base prospectus, a summary should only be drawn up by the issuer in relation to each individual issue, in order to reduce administrative burdens and to enhance the readability for investors. That issue-specific summary should be annexed to the final terms and should only be approved by the competent authority where the final terms are included in the base prospectus or in a supplement thereto.

(38) In order to enhance the flexibility and cost-effectiveness of the base prospectus, an issuer should be allowed to draw up a base prospectus as separate documents.

(39) Frequent issuers should be incentivised to draw up their prospectus as separate documents, since that can reduce their cost of compliance with this Regulation and enable them to swiftly react to market windows. Thus, issuers whose securities are admitted to trading on regulated markets or MTFs should have the option, but not the obligation, to draw up and publish every financial year a universal registration document containing legal, business, financial, accounting and shareholding information and providing a description of the issuer for that financial year. On the condition that an issuer fulfils the criteria set out in this Regulation, the issuer should be deemed to be a frequent issuer as from the moment when the issuer submits the universal registration document for approval to the competent authority. Drawing up a universal registration document should enable the issuer to keep the

information up-to-date and to draw up a prospectus when market conditions become favourable for an offer of securities to the public or an admission to trading on a regulated market by adding a securities note and a summary. The universal registration document should be multi-purpose insofar as its content should be the same irrespective of whether the issuer subsequently uses it for an offer of securities to the public or an admission to trading on a regulated market of equity or non-equity securities. Therefore, the disclosure standards for the universal registration document should be based on those for equity securities. The universal registration document should act as a source of reference on the issuer, supplying investors and analysts with the minimum information needed to make an informed judgement on the company's business, financial position, earnings and prospects, governance and shareholding.

(40) An issuer which has filed and received approval for a universal registration document for two consecutive years can be considered well-known to the competent authority. All subsequent universal registration documents and any amendments thereto should therefore be allowed to be filed without prior approval and reviewed on an ex-post basis by the competent authority where that competent authority deems it necessary. Each competent authority should decide the frequency of such review taking into account for example its assessment of the risks of the issuer, the quality of its past disclosures, or the length of time elapsed since a filed universal registration document has been last reviewed.

(41) As long as it has not become a constituent part of an approved prospectus, it should be possible for the universal registration document to be amended, either voluntarily by the issuer — for example in the event of a material change in the organisation or financial situation of the issuer — or upon request by the competent authority in the context of an ex-post filing review where it is concluded that the standards of completeness, comprehensibility and consistency are not met. Such amendments should be published according to the same arrangements that apply to the universal registration document. In particular, when the competent authority identifies a material omission, a material mistake or a material inaccuracy, the issuer should amend its universal registration document and make that amendment publicly available without undue delay. As neither an offer to the public nor an admission to trading of securities is taking place, the procedure for amending a universal registration document should be distinct from the procedure for supplementing a prospectus, which should apply only after the approval of the prospectus.

(42) Where an issuer draws up a prospectus consisting of separate documents, all constituent parts of the prospectus should be subject to approval, including, where applicable, the universal registration document and any amendments thereto, where they have been previously filed with the competent authority but not approved. Amendments to the universal registration document should not be subject to approval by the competent authority at the time of filing but should only be approved when all the constituent parts of the prospectus are submitted for approval.

(43) To speed up the process of preparing a prospectus and to facilitate access to capital markets in a cost-effective way, frequent issuers who produce a universal registration document should be granted the benefit of a faster approval process, since the main constituent part of the prospectus has either already been approved or is already available for the review by the competent authority. The time needed to obtain approval of the prospectus should therefore be shortened when the registration document takes the form of a universal registration document.

(44) Frequent issuers should be allowed to use a universal registration document and any amendments thereto as a constituent part of a base prospectus. Where a frequent issuer is eligible to draw up an EU Growth prospectus, a simplified prospectus under the simplified disclosure regime for secondary issuances or a wholesale prospectus for non-equity securities, it should be allowed to use its universal registration document and any amendments thereto as a constituent part of any such prospectus, instead of the specific registration document required under those disclosure regimes.

(45) Provided that an issuer complies with the procedures for the filing, dissemination and storage of regulated information and with the deadlines set out in Articles 4 and 5 of Directive 2004/109/EC of the European Parliament and of the Council, it should be allowed to publish the annual and half-yearly financial reports required under Directive 2004/109/EC as parts of the universal registration document, unless the home Member States of the issuer are different for the purposes of this Regulation and Directive 2004/109/EC and unless the language of the universal registration document does not fulfil the conditions of Article 20 of Directive 2004/109/EC. That should alleviate administrative burdens linked to multiple filings, without affecting the information available to the public or the supervision of those reports under Directive 2004/109/EC.

(46) A clear time limit should be set for the validity of a prospectus in order to avoid investment decisions based on outdated information. In order to improve legal certainty, the validity of a prospectus should commence at its approval, a point in time which is easily verified by the competent authority. An offer

of securities to the public under a base prospectus should only extend beyond the validity of the base prospectus where a succeeding base prospectus is approved and published before such validity expires and covers the continuing offer.

(47) By nature, information on taxes on the income from the securities in a prospectus can only be generic, adding little informational value for the individual investor. Since such information is to cover not only the country of registered office of the issuer but also the countries where the offer is being made or admission to trading on a regulated market is being sought, where a prospectus is passported, it is costly to produce and might hamper cross-border offers. Therefore, a prospectus should only contain a warning that the tax laws of the investor's Member State and of the issuer's Member State of incorporation might have an impact on the income received from the securities. However, the prospectus should still contain appropriate information on taxation where the proposed investment entails a specific tax regime, for instance in the case of investments in securities granting investors a favourable tax treatment.

(48) Once a class of securities is admitted to trading on a regulated market, investors are provided with ongoing disclosures by the issuer under Regulation (EU) No 596/2014 of the European Parliament and of the Council and Directive 2004/109/EC. The need for a full prospectus is therefore less acute in cases of subsequent offers to the public or admissions to trading on a regulated market by such an issuer. A distinct simplified prospectus should therefore be available for use in cases of secondary issuances and its content should be alleviated compared to the normal regime, taking into account the information already disclosed. Still, investors need to be provided with consolidated and well-structured information, especially where such information is not required to be disclosed on an ongoing basis under Regulation (EU) No 596/2014 and Directive 2004/109/EC.

(49) The simplified disclosure regime for secondary issuances should be available for offers to the public by issuers whose securities are traded on SME growth markets, as their operators are required under Directive 2014/65/EU of the European Parliament and of the Council to establish and apply rules ensuring appropriate ongoing disclosure.

(50) The simplified disclosure regime for secondary issuances should only be available for use after a minimum period has elapsed since the initial admission to trading on a regulated market or an SME growth market of a class of securities of an issuer. A delay of 18 months should ensure that the issuer has complied at least once with its obligation to publish an annual financial report under Directive 2004/109/EC or under the rules of the market operator of an SME growth market.

(51) One of the core objectives of the Capital Markets Union is to facilitate access to financing on capital markets for SMEs in the Union. It is appropriate to extend the definition of SMEs to include SMEs as defined in Directive 2014/65/EU to ensure consistency between this Regulation and Directive 2014/65/EU. As SMEs usually need to raise relatively lower amounts than other issuers, the cost of drawing up a standard prospectus can be disproportionately high and might deter them from offering their securities to the public. At the same time, because of their size and potentially shorter track record, SMEs might carry a specific investment risk compared to larger issuers and should disclose sufficient information for investors to take their investment decision. Furthermore, in order to encourage the use of capital market financing by SMEs, this Regulation should ensure that special consideration is given to SME growth markets, which are a promising tool to allow smaller, growing companies to raise capital. The success of such venues depends, however, on their ability to cater for the financing needs of growing SMEs. Similarly, certain companies offering securities to the public with a total consideration in the Union not exceeding EUR 20 000 000 would benefit from easier access to capital market financing in order to be able to grow and should be able to raise funds at costs that are not disproportionately high. Therefore, it is appropriate that this Regulation establishes a specific proportionate EU Growth prospectus regime which is available to such companies. A proper balance should be struck between cost-efficient access to financial markets and investor protection when calibrating the content of an EU Growth prospectus. As is the case for other types of prospectus under this Regulation, once approved, an EU Growth prospectus should benefit from the passporting regime under this Regulation and should therefore be valid for any offer of securities to the public across the Union.

(52) The reduced information required to be disclosed in EU Growth prospectuses should be calibrated in a way that focuses on information that is material and relevant when investing in the securities offered, and on the need to ensure proportionality between the size of the company and its fundraising needs, on the one hand, and the cost of producing a prospectus, on the other hand.

(53) The proportionate disclosure regime for EU Growth prospectuses should not be available where a company already has securities admitted to trading on regulated markets, so that investors on regulated markets feel confident that the issuers whose securities they invest in are subject to one single set of

disclosure rules. Therefore, there should not be a two-tier disclosure standard on regulated markets depending on the size of the issuer.

(54) The primary purpose of including risk factors in a prospectus is to ensure that investors make an informed assessment of such risks and thus take investment decisions in full knowledge of the facts. Risk factors should therefore be limited to those risks which are material and specific to the issuer and its securities and which are corroborated by the content of the prospectus. A prospectus should not contain risk factors which are generic and only serve as disclaimers, as those could obscure more specific risk factors that investors should be aware of, thereby preventing the prospectus from presenting information in an easily analysable, concise and comprehensible form. Among others, environmental, social and governance circumstances can also constitute specific and material risks for the issuer and its securities and, in that case, should be disclosed. To help investors identify the most material risks, the issuer should adequately describe and present each risk factor in the prospectus. A limited number of risk factors selected by the issuer should be included in the summary.

(55) The market practice whereby an approved prospectus does not include the final offer price and/or the amount of securities to be offered to the public, whether expressed in number of securities or as an aggregate nominal amount, should be acceptable when such final offer price and/or amount cannot be included in the prospectus, provided that protection is granted to investors in that case. Investors should either be entitled to a right of withdrawal once the final offer price or amount of securities is known, or, alternatively, the prospectus should disclose the maximum price investors might have to pay for the securities, or the maximum amount of securities, or the valuation methods and criteria, and/or conditions, in accordance with which the price of the securities is to be determined and an explanation of any valuation methods used, such as the discounted cash flow method, a peer group analysis or any other commonly accepted valuation methods. The valuation methods and criteria should be precise enough to make the price predictable and ensure a level of investor protection that is similar to the disclosure of the maximum price of the offer. In that respect, a mere reference to the bookbuilding method would not be acceptable as valuation method or criteria where no maximum price is included in the prospectus.

(56) Omission of sensitive information in a prospectus, or in constituent parts thereof, should be allowed in certain circumstances by means of a derogation granted by the competent authority in order to avoid detrimental situations for an issuer.

(57) Member States publish abundant information on their financial situation which is, in general, available in the public domain. Thus, where a Member State guarantees an offer of securities, such information should not need to be provided in the prospectus.

(58) Allowing issuers to incorporate by reference documents containing the information to be disclosed in a prospectus, subject to the requirement that such documents have been published electronically, should facilitate the procedure of drawing up a prospectus and lower the costs for the issuers without endangering investor protection. However, the aim of simplifying and reducing the costs of drafting a prospectus should not be achieved to the detriment of other interests the prospectus is meant to protect, including the accessibility of the information. The language used for information incorporated by reference should follow the language regime applying to prospectuses. Information incorporated by reference should be able to refer to historical data. However, where such information is no longer relevant due to material change, that should be clearly stated in the prospectus and the updated information should also be provided.

(59) Any regulated information, as defined in point (k) of Article 2(1) of Directive 2004/109/EC, should be eligible for incorporation by reference in a prospectus. Issuers whose securities are traded on an MTF, and issuers which are exempted from publishing annual and half-yearly financial reports pursuant to point (b) of Article 8(1) of Directive 2004/109/EC, should also be allowed to incorporate by reference in a prospectus all or part of their annual and interim financial information, audit reports, financial statements, management reports or corporate governance statements, subject to their electronic publication.

(60) Not all issuers have access to adequate information and guidance about the scrutiny and approval process and the necessary steps to follow to get a prospectus approved, as different approaches by competent authorities exist in Member States. This Regulation should eliminate those differences by harmonising the criteria for the scrutiny of the prospectus and harmonising the rules applying to the approval processes of competent authorities by streamlining them. It is important to ensure that all competent authorities take a convergent approach when scrutinising the completeness, consistency and comprehensibility of the information contained in a prospectus taking into account the need for a proportionate approach in the scrutiny of prospectuses based on the circumstances of the issuer and of the issuance. Guidance on how to seek the approval of a prospectus should be publicly available on the

websites of the competent authorities. The European Securities and Markets Authority (ESMA) should play a key role in fostering supervisory convergence in that field by using its powers under Regulation (EU) No 1095/2010 of the European Parliament and of the Council. In particular, ESMA should conduct peer reviews covering activities of the competent authorities under this Regulation within an appropriate time-frame before the review of this Regulation and in accordance with Regulation (EU) No 1095/2010.

(61) To facilitate access to the markets of Member States, it is important that fees charged by competent authorities for the approval and filing of prospectuses and their related documents are reasonable, proportionate and publicly disclosed.

(62) Since the internet ensures easy access to information, and in order to ensure better accessibility for investors, the approved prospectus should always be published in an electronic form. The prospectus should be published on a dedicated section of the website of the issuer, the offeror or the person asking for admission to trading on a regulated market, or, where applicable, on the website of the financial intermediaries placing or selling the securities, including paying agents, or on the website of the regulated market where the admission to trading is sought, or of the operator of the MTF.

(63) All prospectuses approved, or alternatively a list of those prospectuses with hyperlinks to the relevant dedicated website sections, should be published on the website of the competent authority of the issuer's home Member State, and each prospectus should be transmitted by the competent authority to ESMA along with the relevant data enabling its classification. ESMA should provide a centralised storage mechanism of prospectuses allowing access free of charge and appropriate search facilities for the public. To ensure that investors have access to reliable data that can be used and analysed in a timely and efficient matter, certain information contained in the prospectuses, such as the ISINs identifying the securities and the legal entity identifiers (LEIs) identifying the issuers, offerors and guarantors, should be machine readable including when meta data is used. Prospectuses should remain publicly available for at least 10 years after their publication, to ensure that their period of public availability is aligned with that of annual and half-yearly financial reports under Directive 2004/109/EC. Prospectuses should always be available to investors on a durable medium, free of charge, upon request. Where a potential investor makes a specific demand for a paper copy, that investor should be able to receive a printed version of the prospectus. However, that does not require the issuer, the offeror, the person asking for admission to trading on a regulated market or the financial intermediary to keep in reserve printed copies of the prospectus to satisfy such potential requests.

(64) It is also necessary to harmonise advertisements in order to avoid undermining public confidence and prejudicing the proper functioning of financial markets. The fairness and accuracy of advertisements, as well as their consistency with the content of the prospectus are of utmost importance for the protection of investors, including retail investors. Without prejudice to the passporting regime under this Regulation, the supervision of such advertisements is an integral part of the role of competent authorities. The requirements on advertisements in this Regulation should be without prejudice to other applicable provisions of Union law, in particular relating to consumer protection and unfair commercial practices.

(65) Any significant new factor, material mistake or material inaccuracy which could influence the assessment of the investment, arising after the publication of the prospectus but before the closing of the offer or the start of trading on a regulated market, should be properly evaluated by investors and, therefore, requires the approval and dissemination of a supplement to the prospectus without undue delay.

(66) In order to improve legal certainty, the respective time limits within which an issuer is to publish a supplement to the prospectus and within which investors have a right to withdraw their acceptance of the offer following the publication of a supplement should be clarified. On the one hand, the obligation to supplement a prospectus should apply when the significant new factor, material mistake or material inaccuracy occurs before the closing of the offer period or the time when trading of such securities on a regulated market begins, whichever occurs later. On the other hand, the right to withdraw an acceptance should apply only where the prospectus relates to an offer of securities to the public and the significant new factor, material mistake or material inaccuracy arose or was noted before the closing of the offer period and the delivery of the securities. Hence, the right of withdrawal should be linked to the timing of the significant new factor, material mistake or material inaccuracy that gives rise to a supplement, and should apply provided that such triggering event has occurred while the offer is open and before the securities are delivered. The right of withdrawal granted to investors owing to a significant new factor, material mistake or material inaccuracy that arose or was noted during the validity period of a prospectus is not affected by the fact that the corresponding supplement is published after the validity period of that prospectus. In the particular case of an offer that continues under two successive base

prospectuses, the fact that the issuer is in the process of having a succeeding base prospectus approved does not remove the obligation to supplement the previous base prospectus until the end of its validity and grant the associated rights of withdrawal. To improve legal certainty, the supplement to the prospectus should specify when the right of withdrawal ends. Financial intermediaries should inform investors of their rights and facilitate proceedings when investors exert their right to withdraw acceptances.

(67) The obligation for an issuer to translate the entire prospectus into all the relevant official languages discourages cross-border offers or multiple trading. To facilitate cross-border offers, only the summary should be available in the official language or at least one of the official languages of the host Member State or in another language accepted by the competent authority of that Member State.

(68) The competent authority of the host Member State should be entitled to receive a certificate from the competent authority of the home Member State which states that the prospectus has been drawn up in accordance with this Regulation. The competent authority of the home Member State should also notify the issuer or the person responsible for drawing up the prospectus of the certificate of approval of the prospectus that is addressed to the authority of the host Member State in order to provide the issuer or the person responsible for drawing up the prospectus with certainty as to whether and when a notification has in fact been made. All transfers of documents between competent authorities for the purpose of notifications should take place through a notification portal to be established by ESMA.

(69) Where this Regulation allows an issuer to choose its home Member State for the purpose of the prospectus approval, it is appropriate to ensure that such issuer can use as a constituent part of its prospectus a registration document, or a universal registration document, which has already been approved by the competent authority of another Member State. A system of notification between competent authorities should therefore be introduced to ensure that such registration document, or universal registration document, is not subject to a scrutiny or approval by the competent authority approving the prospectus, and that competent authorities remain responsible only for the constituent part of a prospectus which they have approved, including in the event that a supplement is subsequently drawn up.

(70) In order to ensure that the purposes of this Regulation will be fully achieved, it is also necessary to include within its scope securities issued by issuers governed by the laws of third countries. In order to ensure exchanges of information and cooperation with third-country authorities in relation to the effective enforcement of this Regulation, competent authorities should conclude cooperation arrangements with their counterparts in third countries. Any transfer of personal data carried out on the basis of those arrangements should comply with Regulation (EU) 2016/679 of the European Parliament and of the Council and with Regulation (EC) No 45/2001 of the European Parliament and of the Council.

(71) A variety of competent authorities in Member States, with different responsibilities, might create unnecessary costs and overlapping of responsibilities without providing any additional benefit. In each Member State, a single competent authority should be designated to approve prospectuses and to assume responsibility for supervising compliance with this Regulation. That competent authority should be established as an administrative authority and in such a form that their independence from economic actors is guaranteed and conflicts of interest are avoided. The designation of a competent authority for prospectus approval should not exclude cooperation between that competent authority and third parties, such as banking and insurance regulators or listing authorities, with a view to guaranteeing efficient scrutiny and approval of prospectuses in the interest of issuers, investors, markets participants and markets alike. Delegation of tasks by a competent authority to third parties should only be permitted where it relates to the publication of approved prospectuses.

(72) A set of effective tools and powers and resources for the competent authorities of Member States guarantees supervisory effectiveness. This Regulation should therefore in particular provide for a minimum set of supervisory and investigative powers with which competent authorities of Member States should be entrusted in accordance with national law. Those powers should be exercised, where the national law so requires, by application to the competent judicial authorities. When exercising their powers under this Regulation, competent authorities and ESMA should act objectively and impartially and remain autonomous in their decision-making.

(73) For the purpose of detecting infringements of this Regulation, it is necessary for competent authorities to be able to access sites other than the private residences of natural persons in order to seize documents. Access to such premises is necessary when there is reasonable suspicion that documents and other data related to the subject matter of an inspection or investigation exist and might be relevant to prove an infringement of this Regulation. Additionally, access to such premises is necessary where the person to whom a demand for information has already been made fails to comply with it, or where

there are reasonable grounds for believing that, if a demand were to be made, it would not be complied with or that the documents or information to which the information requirement relates would be removed, tampered with or destroyed.

(74) In line with the Communication of the Commission of 8 December 2010 on Reinforcing sanctioning regimes in the financial services sector and in order to ensure that the requirements of this Regulation are fulfilled, it is important that Member States take necessary steps to ensure that infringements of this Regulation are subject to appropriate administrative sanctions and other administrative measures. Those sanctions and measures should be effective, proportionate and dissuasive and ensure a common approach in Member States and a deterrent effect. This Regulation should not limit Member States in their ability to provide for higher levels of administrative sanctions.

(75) In order to ensure that decisions imposing administrative sanctions or other administrative measures taken by competent authorities have a deterrent effect on the public at large, they should normally be published unless the competent authority in accordance with this Regulation deems it necessary to opt for a publication on an anonymous basis, to delay the publication or not to publish.

(76) Although Member States should be able to lay down rules for administrative and criminal sanctions for the same infringements, Member States should not be required to lay down rules for administrative sanctions for the infringements of this Regulation which are subject to criminal sanctions in their national law by 21 July 2018. In accordance with national law, Member States are not obliged to impose both administrative and criminal sanctions for the same offence, but they should be able to do so if their national law so permits. However, the maintenance of criminal sanctions instead of administrative sanctions for infringements of this Regulation should not reduce or otherwise affect the ability of competent authorities to cooperate, access and exchange information in a timely way with competent authorities in other Member States for the purposes of this Regulation, including after any referral of the relevant infringements to the competent judicial authorities for criminal prosecution.

(77) Whistleblowers might bring new information to the attention of competent authorities which assists them in detecting and imposing sanctions in cases of infringements of this Regulation. This Regulation should therefore ensure that adequate arrangements are in place to enable whistleblowers to alert competent authorities to actual or potential infringements of this Regulation and to protect them from retaliation.

(78) In order to specify the requirements set out in this Regulation, the power to adopt acts in accordance with Article 290 of the Treaty on the Functioning of the European Union (TFEU) should be delegated to the Commission in respect of the minimum information content of certain documents to be made available to the public in connection with a takeover by means of an exchange offer, a merger or a division, the scrutiny, approval, filing and review of the universal registration document and any amendments thereto as well as the conditions under which the status of frequent issuer is lost, the format of the prospectus, the base prospectus and the final terms, and the specific information which must be included in a prospectus, the minimum information to be included in the universal registration document, the reduced information to be included in the simplified prospectus in cases of secondary issuances and by SMEs, the specific reduced content and standardised format and sequence of the EU Growth prospectus and its specific summary, the criteria for assessment and presentation of risk factors by the issuer, the scrutiny and approval of prospectuses and the general equivalence criteria for prospectuses drawn up by third country issuers. It is of particular importance that the Commission carry out appropriate consultations during its preparatory work, including at expert level, and that those consultations be conducted in accordance with the principles laid down in the Interinstitutional Agreement of 13 April 2016 on Better Law-Making. In particular, to ensure equal participation in the preparation of delegated acts, the European Parliament and the Council receive all documents at the same time as Member States' experts, and their experts systematically have access to meetings of Commission expert groups dealing with the preparation of delegated acts.

(79) In order to ensure uniform conditions for the implementation of this Regulation in respect of equivalence of the prospectus laws of third countries, implementing powers should be conferred on the Commission to take a decision on such equivalence. Those powers should be exercised in accordance with Regulation (EU) No 182/2011 of the European Parliament and of the Council.

(80) Technical standards in financial services should ensure adequate protection of investors and consumers across the Union. As a body with highly specialised expertise, it would be efficient and appropriate to entrust ESMA with the elaboration of draft regulatory technical standards which do not involve policy choices, for submission to the Commission.

(81) The Commission should be empowered to adopt regulatory technical standards developed by ESMA, with regard to the content and format of presentation of the key financial information to be included in

the summary, the cases where it is possible for certain information to be omitted from the prospectus, the information to be incorporated by reference and further types of documents required under Union law, the publication of the prospectus, the data necessary for the classification of prospectuses in the storage mechanism operated by ESMA, the provisions concerning advertisements, the situations where a significant new factor, material mistake or material inaccuracy relating to the information included in the prospectus requires a supplement to the prospectus to be published, the technical arrangements necessary for the functioning of the ESMA notification portal, the minimum content of the cooperation arrangements with supervisory authorities in third countries and the templates to be used therefor, and the information exchanged between competent authorities and ESMA in the context of the obligation to cooperate. The Commission should adopt those draft regulatory technical standards by means of delegated acts pursuant to Article 290 TFEU and in accordance with Articles 10 to 14 of Regulation (EU) No 1095/2010.

(82) The Commission should also be empowered to adopt implementing technical standards developed by ESMA, with regard to the standard forms, templates and procedures for the notification of the certificate of approval, the prospectus, registration document, universal registration document, any supplement thereto and the translation thereof, the supplement of the prospectus, and the translation of the prospectus and/or summary, the standard forms, templates and procedures for the cooperation and exchange of information between competent authorities, and the procedures and forms for exchange of information between competent authorities and ESMA. The Commission should adopt those implementing technical standards by means of implementing acts pursuant to Article 291 TFEU and in accordance with Article 15 of Regulation (EU) No 1095/2010.

(83)

In exercising its delegated and implementing powers in accordance with this Regulation, the Commission should respect the following principles:

- the need to ensure confidence in financial markets among retail investors and SMEs by promoting high standards of transparency in financial markets,

- the need to calibrate the disclosure requirements of a prospectus taking into account the size of the issuer and the information which an issuer is already required to disclose under Directive 2004/109/EC and Regulation (EU) No 596/2014,

- the need to facilitate access to capital markets for SMEs while ensuring investor confidence in investing in such companies,

- the need to provide investors with a wide range of competing investment opportunities and a level of disclosure and protection tailored to their circumstances,

- the need to ensure that independent regulatory authorities enforce the rules consistently, especially as regards the fight against white-collar crime,

- the need for a high level of transparency and consultation with all market participants and with the European Parliament and the Council,- the need to encourage innovation in financial markets if they are to be dynamic and efficient,

- the need to ensure systemic stability of the financial system by close and reactive monitoring of financial innovation,

- the importance of reducing the cost of, and increasing access to, capital,

- the need to balance, on a long-term basis, the costs and benefits to all market participants of any implementing measure,

- the need to foster the international competitiveness of the Union’s financial markets without prejudice to a much-needed extension of international cooperation,

- the need to achieve a level playing field for all market participants by establishing Union law every time it is appropriate,

- the need to ensure coherence with other Union law in the same area, as imbalances in information and

a lack of transparency might jeopardise the operation of the markets and above all harm consumers and small investors.

(84) Any processing of personal data carried out within the framework of this Regulation, such as the exchange or transmission of personal data by the competent authorities, should be undertaken in accordance with Regulation (EU) 2016/679 and any exchange or transmission of information by ESMA should be undertaken in accordance with Regulation (EC) No 45/2001.

(85) The Commission should, by 21 July 2022, review the application of this Regulation and assess in particular whether the disclosure regimes for secondary issuances and for the EU Growth prospectus, the universal registration document and the prospectus summary remain appropriate to meet the objectives pursued by this Regulation. In particular, the report should analyse the relevant figures and trends concerning the EU Growth prospectus and assess whether the new regime strikes a proper balance between investor protection and the reduction of administrative burdens for the companies entitled to use it. Such a review should also assess whether issuers, in particular SMEs, can obtain LEIs and ISINs at a reasonable cost and within a reasonable period.

(86) The application of the requirements in this Regulation should be deferred in order to allow for the adoption of delegated and implementing acts and to allow competent authorities and market participants to assimilate and plan for the application of the new measures.

(87) Since the objectives of this Regulation, namely to enhance investor protection and market efficiency while establishing the Capital Markets Union, cannot be sufficiently achieved by the Member States but can rather, by reason of its effects, be better achieved at Union level, the Union may adopt measures in accordance with principle of subsidiarity as set out in Article 5 of the Treaty on European Union. In accordance with the principle of proportionality as set out in that Article, this Regulation does not go beyond what is necessary in order to achieve those objectives.

(88) This Regulation respects the fundamental rights and observes the principles recognised in particular by the Charter of Fundamental Rights of the European Union. Therefore, this Regulation should be interpreted and applied in accordance with those rights and principles.

(89) The European Data Protection Supervisor was consulted in accordance with Article 28(2) of Regulation (EC) No 45/2001,

HAVE ADOPTED THIS REGULATION:

CHAPTER I

GENERAL PROVISIONS

Article 1

Subject matter, scope and exemptions

1.This Regulation lays down requirements for the drawing up, approval and distribution of the prospectus to be published when securities are offered to the public or admitted to trading on a regulated market situated or operating in Gibraltar.

2.This Regulation shall not apply to the following types of securities:

(a) units issued by collective investment undertakings other than the closed-end type;

(b) non-equity securities issued by–

  (i) the government of any country or territory;

  (ii) a local or regional authority of any country or territory;

  (iii) a public international body of which any country or territory is a member;

  (iv) the European Central Bank or the central bank of any country or territory;

(c) shares in the capital of central banks of any country or territory;

(d) securities unconditionally and irrevocably guaranteed by the government or a local or regional authority of any country or territory;

(e) securities issued by associations with legal status or non-profit-making bodies, recognised by a country or territory, for the purposes of obtaining the funding necessary to achieve their non-profit-making objectives;

(f) non-fungible shares of capital whose main purpose is to provide the holder with a right to occupy an apartment, or other form of immovable property or a part thereof and where the shares cannot be sold on without that right being given up.

3.Without prejudice to Article 4, this Regulation shall not apply to an offer of securities to the public with a total consideration in Gibraltar of less than EUR 1 000 000, which shall be calculated over a period of 12 months.

4.The obligation to publish a prospectus set out in Article 3(1) shall not apply to any of the following types of offers of securities to the public:

(a) an offer of securities addressed solely to qualified investors;

(b) an offer of securities addressed to fewer than 150 natural or legal persons in Gibraltar, other than qualified investors;

(c) an offer of securities whose denomination per unit amounts to at least EUR 100 000;

(d) an offer of securities addressed to investors who acquire securities for a total consideration of at least EUR 100 000 per investor, for each separate offer;

(e) shares issued in substitution for shares of the same class already issued, if the issuing of such new shares does not involve any increase in the issued capital;

(f) subject to paragraph 6a, securities offered in connection with a takeover by means of an exchange offer, provided that a document is made available to the public in accordance with the arrangements set out in Article 21(2), containing information describing the transaction and its impact on the issuer;

(g) subject to paragraph 6b, securities offered, allotted or to be allotted in connection with a merger or division, provided that a document is made available to the public in accordance with the arrangements set out in Article 21(2), containing information describing the transaction and its impact on the issuer;

(h) dividends paid out to existing shareholders in the form of shares of the same class as the shares in respect of which such dividends are paid, provided that a document is made available containing information on the number and nature of the shares and the reasons for and details of the offer;

(i) securities offered, allotted or to be allotted to existing or former directors or employees by their employer or by an affiliated undertaking provided that a document is made available containing information on the number and nature of the securities and the reasons for and details of the offer or allotment;

(j) non-equity securities issued in a continuous or repeated manner by a credit institution, where the total aggregated consideration in Gibraltar for the securities offered is less than EUR 75 000 000 per credit institution calculated over a period of 12 months, provided that those securities:

  (i) are not subordinated, convertible or exchangeable; and

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

5.The obligation to publish a prospectus set out in Article 3(3) shall not apply to the admission to trading on a regulated market of any of the following:

(a) securities fungible with securities already admitted to trading on the same regulated market, provided that they represent, over a period of 12 months, less than 20 % of the number of securities already admitted to trading on the same regulated market;

(b) shares resulting from the conversion or exchange of other securities or from the exercise of the rights conferred by other securities, where the resulting shares are of the same class as the shares already

admitted to trading on the same regulated market, provided that the resulting shares represent, over a period of 12 months, less than 20 % of the number of shares of the same class already admitted to trading on the same regulated market, subject to the second subparagraph of this paragraph;

(c) securities resulting from the conversion or exchange of other securities, own funds or eligible liabilities by a resolution authority due to the exercise of a power referred to in regulation 53(2), 59(2) or 63(1) to (5) of the Financial Services (Recovery and Resolution) Regulations 2020;

(d) shares issued in substitution for shares of the same class already admitted to trading on the same regulated market, where the issuing of such shares does not involve any increase in the issued capital;

(e) subject to paragraph 6a, securities offered in connection with a takeover by means of an exchange offer, provided that a document is made available to the public in accordance with the arrangements set out in Article 21(2), containing information describing the transaction and its impact on the issuer;

(f) subject to paragraph 6b, securities offered, allotted or to be allotted in connection with a merger or a division, provided that a document is made available to the public in accordance with the arrangements set out in Article 21(2), containing information describing the transaction and its impact on the issuer;

(g) shares offered, allotted or to be allotted free of charge to existing shareholders, and dividends paid out in the form of shares of the same class as the shares in respect of which such dividends are paid, provided that the said shares are of the same class as the shares already admitted to trading on the same regulated market and that a document is made available containing information on the number and nature of the shares and the reasons for and details of the offer or allotment;

(h) securities offered, allotted or to be allotted to existing or former directors or employees by their employer or an affiliated undertaking, provided that the said securities are of the same class as the securities already admitted to trading on the same regulated market and that a document is made available containing information on the number and nature of the securities and the reasons for and detail of the offer or allotment;

(i) non-equity securities issued in a continuous or repeated manner by a credit institution, where the total aggregated consideration for the securities offered is less than EUR 75 000 000 per credit institution calculated over a period of 12 months, provided that those securities:

  (i) are not subordinated, convertible or exchangeable; and

  (ii) do not give a right to subscribe for or acquire other types of securities and are not linked to a derivative instrument;

(j) securities already admitted to trading on another regulated market, on the following conditions:

  (i) that those securities, or securities of the same class, have been admitted to trading on that other regulated market for more than 18 months;

  (ii) that, for securities first admitted to trading on a regulated market after 1 July 2005, the admission to trading on that other regulated market was subject to a prospectus approved and published in accordance with Directive 2003/71/EC;

  (iii) that, except where point (ii) applies, for securities first admitted to listing after 30 June 1983, listing particulars were approved in accordance with the requirements of Council Directive 80/390/EEC or Directive 2001/34/EC of the European Parliament and of the Council;

  (iv) that the ongoing obligations for trading on that other regulated market have been fulfilled;

  (v) that the person seeking the admission of a security to trading on a regulated market under the exemption set out in this point (j) makes available to the public, in accordance with the arrangements set out in Article 21(2), a document the content of which complies with Article 7, except that the maximum length set out in Article 7(3) shall be extended by two additional sides of A4-sized paper, drawn up in a language accepted by the competent authority; and

  (vi) that the document referred to in point (v) states where the most recent prospectus can be obtained and where the financial information published by the issuer pursuant to ongoing disclosure obligations is available.

The requirement that the resulting shares represent, over a period of 12 months, less than 20 % of the number of shares of the same class already admitted to trading on the same regulated market as referred to in point (b) of the first subparagraph shall not apply in any of the following cases:

(a) where a prospectus was drawn up in accordance with:

(i) before IP completion day, either this Regulation as it had effect immediately before IP completion day or Directive 2003/71/EC, or`

(ii)

on or after IP completion day, this Regulation,

upon the offer to the public or admission to trading on a regulated market of the securities giving access to the shares;

(b) where the securities giving access to the shares were issued before 20 July 2017;

(c) where the shares qualify as Common Equity Tier 1 items as laid down in Article 26 of Regulation (EU) No 575/2013 of the European Parliament and of the Council of an institution as defined in point (3) of Article 4(1) of that Regulation and result from the conversion of Additional Tier 1 instruments issued by that institution due to the occurrence of a trigger event as laid down in point (a) of Article 54(1) of that Regulation;

(d) where the shares qualify as eligible own funds or eligible basic own funds as defined in Chapter 2 of Part 6 of the Financial Services (Insurance Companies) Regulations 2020, and result from the conversion of other securities which was triggered for the purposes of fulfilling the obligations to comply with the Solvency Capital Requirement or Minimum Capital Requirement as laid down in Chapters 3 and 4 of Part 6 of those Regulations or the group solvency requirement as laid down in Part 11 of those Regulation.

6.The exemptions from the obligation to publish a prospectus that are set out in paragraphs 4 and 5 may be combined together. However, the exemptions in points (a) and (b) of the first subparagraph of paragraph 5 shall not be combined together if such combination could lead to the immediate or deferred admission to trading on a regulated market over a period of 12 months of more than 20 % of the number of shares of the same class already admitted to trading on the same regulated market, without a prospectus being published.

6a. The exemptions set out in point (f) of paragraph 4 and in point (e) of paragraph 5 shall only apply to equity securities, and only in the following cases:

(a) the equity securities offered are fungible with existing securities already admitted to trading on a regulated market prior to the takeover and its related transaction, and the takeover is not considered to be a reverse acquisition transaction within the meaning of paragraph B19 of international financial reporting standard (IFRS) 3, Business Combinations; or

(b) the GFSC has issued a prior approval, under paragraph 6c of this Article, for the documents referred to in point (f) of paragraph 4 or point (e) of paragraph 5 of this Article.

6b. The exemptions set out in point (g) of paragraph 4 and in point (f) of paragraph 5 shall apply only to equity securities in respect of which the transaction is not considered to be a reverse acquisition transaction within the meaning of paragraph B19 of IFRS 3, Business Combinations, and only in the following cases:

(a) the equity securities of the acquiring entity have already been admitted to trading on a regulated market prior to the transaction; or

(b) the equity securities of the entities subject to the division have already been admitted to trading on a regulated market prior to the transaction.

6c. The GFSC may issue prior approval for the documents referred to in point (f) of paragraph 4 or point (e) of paragraph 5 of this Article.

7.The Minister may by regulations specify the minimum information content of the documents referred to in points (f) and (g) of paragraph 4 and points (e) and (f) of the first subparagraph of paragraph 5 of this Article.

Article 2

Definitions

For the purposes of this Regulation, the following definitions apply:

(a) ‘securities’ means transferable securities as defined in Article 2(1)(24) of MiFIR, other than money market instruments as defined in Article 2(1)(25A) of MiFIR that have a maturity of less than 12 months;

(b) ‘equity securities’ means shares and other transferable securities equivalent to shares in companies, as well as any other type of transferable securities giving the right to acquire any of the aforementioned securities as a consequence of their being converted or the rights conferred by them being exercised, provided that securities of the latter type are issued by the issuer of the underlying shares or by an entity belonging to the group of the said issuer;

(c) ‘non-equity securities’ means all securities that are not equity securities;

(d) ‘offer of securities to the public’ means a communication to persons in any form and by any means, presenting sufficient information on the terms of the offer and the securities to be offered, so as to enable an investor to decide to purchase or subscribe for those securities. This definition also applies to the placing of securities through financial intermediaries;

(e) ‘qualified investor’, in relation to an offer of transferable securities, means–

(i) a person described in points (1) to (4) of Section I of Schedule 1 to the Financial Services (Investment Services) Regulations 2020;

(ii) a person who has made a request to be treated as a professional client in accordance with Section II of that Schedule; or

(iii) a person who is an eligible counterparty for the purposes of regulation 44 of those Regulations,

unless, before the making of the offer, the person has entered into an agreement to be treated as a non-professional client in accordance with the fourth paragraph of Section I of Schedule 1 to those Regulations;

(f) ‘small and medium-sized enterprises’ or ‘SMEs’ means any of the following:

(i) companies, which, according to their last annual or consolidated accounts, meet at least two of the following three criteria: an average number of employees during the financial year of less than 250, a total balance sheet not exceeding EUR 43 000 000 and an annual net turnover not exceeding EUR 50 000 000;

(ii) small and medium-sized enterprises as defined in regulation 66(8) of the Financial Services (Investment Services) Regulations 2020.

(g) ‘credit institution’ has the meaning given in Article 2(1)(19) of MiFIR;

(h) ‘issuer’ means a legal entity which issues or proposes to issue securities;

(i) ‘offeror’ means a legal entity or individual which offers securities to the public;

(j) ‘regulated market’ means a regulated market as defined in Article 2(1)(13) of MiFIR;

(k) ‘advertisement’ means a communication with both of the following characteristics:

(i) relating to a specific offer of securities to the public or to an admission to trading on a regulated market;

(ii) aiming to specifically promote the potential subscription or acquisition of securities;

(l) ‘regulated information’ means all information which an issuer, or any other person who has applied for the admission of securities to trading on a regulated market without the issuer's consent, is required to disclose under–

(i) Chapter 4 of Part 19 of the Act;

(ii) the Financial Services (Official Listing) Rules 2020; or

(iii) the Market Abuse Regulation;

(m) *Omitted*

(n) *Omitted*

(o) ‘competent authority’ means the GFSC;

(p) ‘collective investment undertaking other than the closed-end type’ means unit trusts and investment companies with both of the following characteristics:

(i) they raise capital from a number of investors, with a view to investing it in accordance with a defined investment policy for the benefit of those investors;

(ii) their units are, at the holder’s request, repurchased or redeemed, directly or indirectly, out of their assets;

(q) ‘units of a collective investment undertaking’ means securities issued by a collective investment undertaking as representing the rights of the participants in such an undertaking over its assets;

(r) ‘approval’ means the positive act at the outcome of the scrutiny by the competent authority of the completeness, the consistency and the comprehensibility of the information given in the prospectus;

(s) ‘base prospectus’ means a prospectus that complies with Article 8, and, at the choice of the issuer, the final terms of the offer;

(t) ‘working day’ means a day which is not a Saturday, Sunday or bank or public holiday;

(u) ‘multilateral trading facility’ or ‘MTF’ means a Gibraltar MTF as defined by Article 2(1)(14)(a) of MiFIR;

(v) ‘organised trading facility’ or ‘OTF’ means a Gibraltar OTF as defined by Article 2(1)(15)(a) of MiFIR;

(w) ‘SME growth market’ means an SME growth market as defined in regulation 66(1) of the Financial Services (Investment Services) Regulations 2020;

(x) ‘third country issuer’ means an issuer established in a third country;

(y) ‘offer period’ means the period during which potential investors may purchase or subscribe for the securities concerned;

(z) ‘durable medium’ means any instrument which:

(i) enables a customer to store information addressed personally to that customer in a way accessible for future reference and for a period adequate for the purposes of the information; and

(ii) allows the unchanged reproduction of the information stored.

(z1) “Act” means the Financial Services Act 2019;

(z2) "GFSC" means the Gibraltar Financial Services Commission, within the meaning of section 21 of the Act;

(z3) "Market Abuse Regulation" means Regulation (EU) No 596/2014 of the European Parliament and of the Council of 16 April 2014 on market abuse (market abuse regulation) and repealing Directive 2003/6/EC of the European Parliament and of the Council and Commission Directives 2003/124/EC, 2003/125/EC and 2004/72/EC, as it forms part of the law of Gibraltar;

(z4) "MiFIR" means Regulation (EU) No 600/2014 of the European Parliament and of the Council of 15 May 2014 on markets in financial instruments and amending Regulation (EU) No 648/2012, as it forms part of the law of Gibraltar;

(z5) "Minister" means the Minister with responsibility for financial services;

(z6) references to a "third country" (including in expressions including the words "third country") are to be read as references to a country or territory other than Gibraltar.

Article 3

Obligation to publish a prospectus and exemption

1.Without prejudice to Article 1(4), securities shall only be offered to the public in Gibraltar after prior publication of a prospectus in accordance with this Regulation.

2.*Omitted*.

3.Without prejudice to Article 1(5), securities shall only be admitted to trading on a regulated market situated or operating in Gibraltar after prior publication of a prospectus in accordance with this Regulation.

Article 4

Voluntary prospectus

1.Where an offer of securities to the public or an admission of securities to trading on a regulated market is outside the scope of this Regulation in accordance with Article 1(3), or exempted from the obligation to publish a prospectus in accordance with Article 1(4), 1(5) or 3(2), an issuer, an offeror or a person asking for admission to trading on a regulated market shall be entitled to voluntarily draw up a prospectus in accordance with this Regulation.

2.Such voluntarily drawn up prospectus approved by the competent authority shall entail all the rights and obligations provided for a prospectus required under this Regulation and shall be subject to all provisions of this Regulation, under the supervision of the competent authority.

Article 5

Subsequent resale of securities

1.Any subsequent resale of securities which were previously the subject of one or more of the types of offer of securities to the public listed in points (a) to (d) of Article 1(4) shall be considered as a separate offer and the definition set out in point (d) of Article 2 shall apply for the purpose of determining whether that resale is an offer of securities to the public. The placement of securities through financial intermediaries shall be

subject to publication of a prospectus unless one of the exemptions listed in points (a) to (d) of Article 1(4) applies in relation to the final placement.

No additional prospectus shall be required in any such subsequent resale of securities or final placement of securities through financial intermediaries as long as a valid prospectus is available in accordance with Article 12 and the issuer or the person responsible for drawing up such prospectus consents to its use by means of a written agreement.

2.Where a prospectus relates to the admission to trading on a regulated market of non-equity securities that are to be traded only on a regulated market, or a specific segment thereof, to which only qualified investors can have access for the purposes of trading in such securities, the securities shall not be resold to non-qualified investors, unless a prospectus is drawn up in accordance with this Regulation that is appropriate for non-qualified investors.

CHAPTER II

DRAWING UP OF THE PROSPECTUS

Article 6

The prospectus

1.Without prejudice to Article 14(2) and Article 18(1), a prospectus shall contain the necessary information which is material to an investor for making an informed assessment of:

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

(b) the rights attaching to the securities; and

(c) the reasons for the issuance and its impact on the issuer.

That information may vary depending on any of the following:

(a) the nature of the issuer;

(b) the type of securities;

(c) the circumstances of the issuer;

(d) where relevant, whether or not the non-equity securities have a denomination per unit of at least EUR 100 000 or are to be traded only on a regulated market, or a specific segment thereof, to which only qualified investors can have access for the purposes of trading in the securities.

2.The information in a prospectus shall be written and presented in an easily analysable, concise and comprehensible form, taking into account the factors set out in the second subparagraph of paragraph 1.

3.The issuer, offeror or person asking for the admission to trading on a regulated market may draw up the prospectus as a single document or as separate documents.

Without prejudice to Article 8(8) and the second subparagraph of Article 7(1), a prospectus composed of separate documents shall divide the required information into a registration document, a securities note and a summary. The registration document shall contain the information relating to the issuer. The securities note shall contain the information concerning the securities offered to the public or to be admitted to trading on a regulated market.

Article 7

The prospectus summary

1.The prospectus shall include a summary that provides the key information that investors need in order to understand the nature and the risks of the issuer, the guarantor and the securities that are being offered or admitted to trading on a regulated market, and that is to be read together with the other parts of the prospectus to aid investors when considering whether to invest in such securities.

By way of derogation from the first subparagraph, no summary shall be required where the prospectus relates to the admission to trading on a regulated market of non-equity securities provided that:

(a) such securities are to be traded only on a regulated market, or a specific segment thereof, to which only qualified investors can have access for the purposes of trading in such securities; or

(b) such securities have a denomination per unit of at least EUR 100 000.

2.The content of the summary shall be accurate, fair and clear and shall not be misleading. It is to be read as an introduction to the prospectus and it shall be consistent with the other parts of the prospectus.

3.The summary shall be drawn up as a short document written in a concise manner and of a maximum length of seven sides of A4-sized paper when printed. The summary shall:

(a) be presented and laid out in a way that is easy to read, using characters of readable size;

(b) be written in a language and a style that facilitate the understanding of the information, in particular, in language that is clear, non-technical, concise and comprehensible for investors.

4.The summary shall be made up of the following four sections:

(a) an introduction, containing warnings;

(b) key information on the issuer;

(c) key information on the securities;

(d) key information on the offer of securities to the public and/or the admission to trading on a regulated market.

5.The section referred to in point (a) of paragraph 4 shall contain:

(a) the name and international securities identification number (ISIN) of the securities;

(b) the identity and contact details of the issuer, including its legal entity identifier (LEI);

(c) where applicable, the identity and contact details of the offeror, including its LEI if the offeror has legal personality, or of the person asking for admission to trading on a regulated market;

(d) the identity and contact details of the competent authority approving the prospectus and, where different, the competent authority that approved the registration document or the universal registration document;

(e) the date of approval of the prospectus;

It shall contain the following warnings:

(a) the summary should be read as an introduction to the prospectus;

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

(c) where applicable, that the investor could lose all or part of the invested capital and, where the investor’s liability is not limited to the amount of the investment, a warning that the investor could lose more than the invested capital and the extent of such potential loss;

(d) *Omitted*

(e) civil liability attaches only to those persons who have tabled the summary including any translation thereof, but only where the summary is misleading, inaccurate or inconsistent, when read together with

the other parts of the prospectus, or where it does not provide, when read together with the other parts of the prospectus, key information in order to aid investors when considering whether to invest in such securities;

(f) where applicable, the comprehension alert required in accordance with point (b) of Article 8(3) of Regulation (EU) No 1286/2014.

6.The section referred to in point (b) of paragraph 4 shall contain the following information:

(a) under a sub-section entitled 'Who is the issuer of the securities?', a brief description of the issuer of the securities, including at least the following:

  (i) its domicile and legal form, its LEI, the law under which it operates and its country of incorporation;

  (ii) its principal activities;

  (iii) its major shareholders, including whether it is directly or indirectly owned or controlled and by whom;

  (iv) the identity of its key managing directors;

  (v) the identity of its statutory auditors;

(b) under a sub-section entitled 'What is the key financial information regarding the issuer?' a selection of historical key financial information presented for each financial year of the period covered by the historical financial information, and any subsequent interim financial period accompanied by comparative data from the same period in the prior financial year. The requirement for comparative balance sheet information shall be satisfied by presenting the year-end balance sheet information. Key financial information shall, where applicable, include:

  (i) pro forma financial information;

  (ii) a brief description of any qualifications in the audit report relating to the historical financial information;

(c) under a sub-section entitled 'What are the key risks that are specific to the issuer?' a brief description of the most material risk factors specific to the issuer contained in the prospectus, while not exceeding the total number of risk factors set out in paragraph 10.

7.The section referred to in point (c) of paragraph 4 shall contain the following information:

(a) under a sub-section entitled 'What are the main features of the securities?', a brief description of the securities being offered to the public and/or admitted to trading on a regulated market including at least:

  (i) their type, class and ISIN;

  (ii) where applicable, their currency, denomination, par value, the number of securities issued and the term of the securities;

  (iii) the rights attached to the securities;

  (iv) the relative seniority of the securities in the issuer's capital structure in the event of insolvency, including, where applicable, information on the level of subordination of the securities and the potential impact on the investment in the event of a resolution under Part 17 of the Act;

  (v) any restrictions on the free transferability of the securities;

  (vi) where applicable, the dividend or payout policy;

(b) under a sub-section entitled 'Where will the securities be traded?', an indication as to whether the securities are or will be subject to an application for admission to trading on a regulated market or for trading on an MTF and the identity of all the markets where the securities are or are to be traded;

(c) where there is a guarantee attached to the securities, under a sub-section entitled 'Is there a guarantee attached to the securities?', the following information:

(i) a brief description of the nature and scope of the guarantee;

(ii) a brief description of the guarantor, including its LEI;

(iii) the relevant key financial information for the purpose of assessing the guarantor's ability to fulfil its commitments under the guarantee; and

(iv) a brief description of the most material risk factors pertaining to the guarantor contained in the prospectus in accordance with Article 16(3), while not exceeding the total number of risk factors set out in paragraph 10;

(d) under a sub-section entitled 'What are the key risks that are specific to the securities?', a brief description of the most material risk factors specific to the securities contained in the prospectus, while not exceeding the total number of risk factors set out in paragraph 10.

Where a key information document is required to be prepared under Regulation (EU) No 1286/2014, the issuer, the offeror or the person asking for admission to trading on a regulated market may substitute the content set out in this paragraph with the information set out in points (c) to (i) of Article 8(3) of Regulation (EU) No 1286/2014.

Where there is a substitution of content pursuant to the second subparagraph, the maximum length set out in paragraph 3 shall be extended by three additional sides of A4-sized paper. The content of the key information document shall be included as a distinct section of the summary. The page layout of that section shall clearly identify it as the content of the key information document as set out in points (c) to (i) of Article 8(3) of Regulation (EU) No 1286/2014.

Where, in accordance with the third subparagraph of Article 8(9), a single summary covers several securities which differ only in some very limited details, such as the issue price or maturity date, the maximum length set out in paragraph 3 shall be extended by two additional sides of A4-sized paper. However, in the event that a key information document is required to be prepared for those securities under Regulation (EU) No 1286/2014 and the issuer, the offeror or the person asking for admission to trading on a regulated market proceeds with the substitution of content referred to in the second subparagraph of this paragraph, the maximum length shall be extended by three additional sides of A4-sized paper for each additional security.

Where the summary contains the information referred to in point (c) of the first subparagraph, the maximum length set out in paragraph 3 shall be extended by one additional side of A4-sized paper.

8.The section referred to in point (d) of paragraph 4 shall contain the following information:

(a) under a sub-section entitled 'Under which conditions and timetable can I invest in this security?', where applicable, the general terms, conditions and expected timetable of the offer, the details of the admission to trading on a regulated market, the plan for distribution, the amount and percentage of immediate dilution resulting from the offer and an estimate of the total expenses of the issue and/or offer, including estimated expenses charged to the investor by the issuer or the offeror;

(b) if different from the issuer, under a sub-section entitled 'Who is the offeror and/or the person asking for admission to trading?', a brief description of the offeror of the securities and/or the person asking for admission to trading on a regulated market, including its domicile and legal form, the law under which it operates and its country of incorporation;

(c) under a sub-section entitled 'Why is this prospectus being produced?', a brief description of the reasons for the offer or for the admission to trading on a regulated market, as well as, where applicable:

(i) the use and estimated net amount of the proceeds;

(ii) an indication of whether the offer is subject to an underwriting agreement on a firm commitment basis, stating any portion not covered;

(iii) an indication of the most material conflicts of interest pertaining to the offer or the admission to trading.

9.Under each of the sections described in paragraphs 6, 7 and 8, the issuer may add sub-headings where deemed necessary.

10.The total number of risk factors included in the sections of the summary referred to in point (c) of paragraph 6 and point (c)(iv) and point (d) of the first subparagraph of paragraph 7 shall not exceed 15.

11.The summary shall not contain cross-references to other parts of the prospectus or incorporate information by reference.

12.*Omitted*.

13.The Minister may make technical standards to specify the content and format of presentation of the key financial information referred to in point (b) of paragraph 6, and the relevant key financial information referred to in point (c)(iii) of paragraph 7, taking into account the various types of securities and issuers and ensuring that the information produced is concise and understandable.

Article 8

The base prospectus

1.For non-equity securities, including warrants in any form, the prospectus may, at the choice of the issuer, offeror or person asking for the admission to trading on a regulated market, consist of a base prospectus containing the necessary information concerning the issuer and the securities offered to the public or to be admitted to trading on a regulated market.

2.A base prospectus shall include the following information:

(a) a template, entitled ‘form of the final terms’, to be filled out for each individual issue and indicating the available options with regard to the information to be determined in the final terms of the offer;

(b) the address of the website where the final terms will be published.

3.Where a base prospectus contains options with regard to the information required by the relevant securities note, the final terms shall determine which of the options is applicable to the individual issue by referring to the relevant sections of the base prospectus or by replicating such information.

4.The final terms shall be presented in the form of a separate document or shall be included in the base prospectus or in any supplement thereto. The final terms shall be prepared in an easily analysable and comprehensible form.

The final terms shall only contain information that relates to the securities note and shall not be used to supplement the base prospectus. Point (b) of Article 17(1) shall apply in such cases.

5.Where the final terms are neither included in the base prospectus, nor in a supplement, the issuer shall make them available to the public in accordance with the arrangements set out in Article 21 and file them with the competent authority, as soon as practicable upon offering securities to the public and, where possible, before the beginning of the offer of securities to the public or admission to trading on a regulated market.

A clear and prominent statement shall be inserted in the final terms indicating:

(a) that the final terms have been prepared for the purpose of this Regulation and must be read in conjunction with the base prospectus and any supplement thereto in order to obtain all the relevant information;

(b) where the base prospectus and any supplement thereto are published in accordance with the arrangements set out in Article 21;

(c) that a summary of the individual issue is annexed to the final terms.

6.A base prospectus may be drawn up as a single document or as separate documents.

Where the issuer, the offeror or the person asking for admission to trading on a regulated market has filed a registration document for non-equity securities, or a universal registration document in accordance with Article 9, and chooses to draw up a base prospectus, the base prospectus shall consist of the following:

(a) the information contained in the registration document, or in the universal registration document;

(b) the information which would otherwise be contained in the relevant securities note, with the exception of the final terms where the final terms are not included in the base prospectus.

7.The specific information on each of the different securities included in a base prospectus shall be clearly segregated.

8.A summary shall only be drawn up once the final terms are included in the base prospectus, or in a supplement, or are filed, and that summary shall be specific to the individual issue.

9.The summary of the individual issue shall be subject to the same requirements as the final terms, as set out in this Article, and shall be annexed to them.

The summary of the individual issue shall comply with Article 7 and shall provide the following:

(a) he key information in the base prospectus, including the key information on the issuer;

(b) the key information in the appropriate final terms, including the key information which was not included in the base prospectus.

Where the final terms relate to several securities which differ only in some very limited details, such as the issue price or maturity date, a single summary of the individual issue may be attached for all those securities, provided the information referring to the different securities is clearly segregated.

10.The information contained in the base prospectus shall, where necessary, be supplemented in accordance with Article 23.

11.An offer of securities to the public may continue after the expiration of the base prospectus under which it was commenced provided that a succeeding base prospectus is approved and published no later than the last day of validity of the previous base prospectus. The final terms of such an offer shall contain a prominent warning on their first page indicating the last day of validity of the previous base prospectus and where the succeeding base prospectus will be published. The succeeding base prospectus shall include or incorporate by reference the form of the final terms from the initial base prospectus and refer to the final terms that are relevant for the continuing offer.

A right of withdrawal pursuant to Article 23(2) shall also apply to investors who have agreed to purchase or subscribe for the securities during the validity period of the previous base prospectus, unless the securities have already been delivered to them.

Article 9

The universal registration document

1.Any issuer whose securities are admitted to trading on a regulated market or an MTF may draw up every financial year a registration document in the form of a universal registration document describing the company’s organisation, business, financial position, earnings and prospects, governance and shareholding structure.

2.Any issuer that chooses to draw up a universal registration document every financial year shall submit it for approval to the competent authority in accordance with the procedure set out in Article 20(2) and (4).

After the issuer has had a universal registration document approved by the competent authority for two consecutive financial years, subsequent universal registration documents may be filed with the competent

authority without prior approval.

Where the issuer thereafter fails to file a universal registration document for one financial year, the benefit of filing without prior approval shall be lost and all subsequent universal registration documents shall be submitted to the competent authority for approval until the condition set out in the second subparagraph is met again.

The issuer shall indicate in its application to the competent authority whether the universal registration document is submitted for approval or filed without prior approval.

3.Issuers which, prior to 21 July 2019, have had a registration document, drawn up in accordance with Annex I to Commission Regulation (EC) No 809/2004, approved by the competent authority for at least two consecutive financial years and have thereafter filed, in accordance with Article 12(3) of Directive 2003/71/EC, or got approved such a registration document every year, shall be allowed to file a universal registration document without prior approval in accordance with the second subparagraph of paragraph 2 of this Article from 21 July 2019.

4.Once approved or filed without prior approval, the universal registration document, as well as the amendments thereto referred to in paragraphs 7 and 9 of this Article, shall be made available to the public without undue delay, in accordance with the arrangements set out in Article 21.

5.*Omitted*.

6.Information may be incorporated by reference into a universal registration document under the conditions set out in Article 19.

7.Following the filing or approval of a universal registration document, the issuer may at any time update the information it contains by filing an amendment thereto with the competent authority. Subject to the first and second subparagraphs of Article 10(3), the filing of the amendment with the competent authority shall not require approval.

8.The competent authority may at any time review the content of any universal registration document which has been filed without prior approval, as well as the content of any amendments thereto.

The review by the competent authority shall consist in scrutinising the completeness, the consistency and the comprehensibility of the information given in the universal registration document and any amendments thereto.

9.Where the competent authority, in the course of the review, finds that the universal registration document does not meet the standards of completeness, comprehensibility and consistency, or that amendments or supplementary information are needed, it shall notify it to the issuer.

A request for amendment or supplementary information addressed by the competent authority to the issuer needs only be taken into account by the issuer in the next universal registration document filed for the following financial year, except where the issuer wishes to use the universal registration document as a constituent part of a prospectus submitted for approval. In that case, the issuer shall file an amendment to the universal registration document at the latest upon submission of the application referred to in Article 20(6).

By way of derogation from the second subparagraph, where the competent authority notifies the issuer that its request for amendment or supplementary information concerns a material omission or a material mistake or material inaccuracy, which is likely to mislead the public with regard to facts and circumstances essential for an informed assessment of the issuer, the issuer shall file an amendment to the universal registration document without undue delay.

The competent authority may request that the issuer produces a consolidated version of the amended universal registration document, where such a consolidated version is necessary to ensure comprehensibility of the information provided in that document. An issuer may voluntarily include a consolidated version of its amended universal registration document in an annex to the amendment.

10.Paragraphs 7 and 9 shall only apply where the universal registration document is not in use as a constituent part of a prospectus. Whenever a universal registration document is in use as a constituent part of a prospectus, only Article 23 on supplementing the prospectus shall apply between the time when the prospectus is approved and the final closing of the offer of securities to the public or, as the case may be, the time when trading on a regulated market begins, whichever occurs later.

11.An issuer fulfilling the conditions set out in the first or second subparagraph of paragraph 2 or in paragraph 3 of this Article shall have the status of frequent issuer and shall benefit from the faster approval process in accordance with Article 20(6), provided that:

(a) upon the filing or submission for approval of each universal registration document, the issuer provides written confirmation to the competent authority that, to the best of its knowledge, all regulated information which it was required to disclose under Chapter 4 of Part 19 of the Act, if applicable, and under the Market Abuse Regulation has been filed and published in accordance with those acts over the last 18 months or over the period since the obligation to disclose regulated information commenced, whichever is the shorter; and

(b) where the competent authority has undertaken a review as referred to in paragraph 8, the issuer has amended its universal registration document in accordance with paragraph 9.

Where any of the above conditions is not fulfilled by the issuer, the status of frequent issuer shall be lost.

12.Where the universal registration document filed with or approved by the competent authority is made public at the latest four months after the end of the financial year, and contains the information required to be disclosed in the annual financial report referred to in section 359 of the Act, the issuer shall be deemed to have fulfilled its obligation to publish the annual financial report required under that Article.

Where the universal registration document, or an amendment thereto, is filed or approved by the competent authority and made public at the latest three months after the end of the first six months of the financial year, and contains the information required to be disclosed in the half-yearly financial report referred to in section 360 of the Act, the issuer shall be deemed to have fulfilled its obligation to publish the half-yearly financial report required under that Article.

In the cases referred to in the first and second subparagraph, the issuer:

(a) shall include in the universal registration document a cross reference list identifying where each item required in the annual and half-yearly financial reports can be found in the universal registration document;

(b) shall file the universal registration document in accordance with section 375(2) of the Act and make it available to the officially appointed mechanism referred to in section 377(1) of the Act;

(c) shall include in the universal registration document a responsibility statement using the terms required under sections 359(2)(c) and 360(2)(c) of the Act.

13.*Omitted*.

14.The Minister may make regulations to supplement this Regulation by specifying the criteria for the scrutiny and review of the universal registration document and any amendments to it, and the procedures for the approval and filing of those documents as well as the conditions under which the status of frequent issuer is lost.

Article 10

Prospectuses consisting of separate documents

1.An issuer that has already had a registration document approved by the competent authority shall be required to draw up only the securities note and the summary, where applicable, when securities are offered to the public or admitted to trading on a regulated market. In that case, the securities note and the summary shall be subject to a separate approval.

Where, since the approval of the registration document, there has been a significant new factor, material mistake or material inaccuracy relating to the information included in the registration document which is capable of affecting the assessment of the securities, a supplement to the registration document shall be submitted for approval, at the latest at the same time as the securities note and the summary. The right to withdraw acceptances in accordance with Article 23(2) shall not apply in that case.

The registration document and its supplement, where applicable, accompanied by the securities note and the summary shall constitute a prospectus, once approved by the competent authority.

2.Once approved, the registration document shall be made available to the public without undue delay and in accordance with the arrangements set out in Article 21.

3.An issuer that has already had a universal registration document approved by the competent authority, or that has filed a universal registration document without prior approval pursuant to the second subparagraph of Article 9(2), shall be required to draw up only the securities note and the summary when securities are offered to the public or admitted to trading on a regulated market.

Where the universal registration document has already been approved, the securities note, the summary and all amendments to the universal registration document filed since the approval of the universal registration document shall be subject to a separate approval.

Where an issuer has filed a universal registration document without prior approval, the entire documentation, including amendments to the universal registration document, shall be subject to approval, notwithstanding the fact that those documents remain separate.

The universal registration document, amended in accordance with Article 9(7) or (9), accompanied by the securities note and the summary shall constitute a prospectus, once approved by the competent authority.

Article 11

Omitted

Article 12

Validity of a prospectus, registration document and universal registration document

1.A prospectus, whether a single document or consisting of separate documents, shall be valid for 12 months after its approval for offers to the public or admissions to trading on a regulated market, provided that it is completed by any supplement required pursuant to Article 23.

Where a prospectus consists of separate documents, the period of validity shall begin upon approval of the securities note.

2.A registration document which has been previously approved shall be valid for use as a constituent part of a prospectus for 12 months after its approval.

The end of the validity of such a registration document shall not affect the validity of a prospectus of which it is a constituent part.

3.A universal registration document shall be valid for use as a constituent part of a prospectus for 12 months after its approval as referred to in the first subparagraph of Article 9(2) or after its filing as referred to in the second subparagraph of Article 9(2).

The end of the validity of such a universal registration document shall not affect the validity of a prospectus of which it is a constituent part.

CHAPTER III

THE CONTENT AND FORMAT OF THE PROSPECTUS

Article 13

Minimum information and format

1.The Minister may by regulations supplement this Regulation regarding the format of the prospectus, the base prospectus and the final terms, and the schedules defining the specific information to be included in a prospectus, including LEIs and ISINs, avoiding duplication of information when a prospectus is composed of separate documents.

In particular, when setting out the various prospectus schedules, account shall be taken of the following:

(a) the various types of information needed by investors relating to equity securities as compared with non-equity securities; a consistent approach shall be taken with regard to information required in a prospectus for securities which have a similar economic rationale, notably derivative securities;

(b) the various types and characteristics of offers and admissions to trading on a regulated market of non-equity securities;

(c) the format used and the information required in base prospectuses relating to non-equity securities, including warrants in any form;

(d) where applicable, the public nature of the issuer;

(e) where applicable, the specific nature of the activities of the issuer.

For the purposes of point (b) of the second subparagraph, when setting out the various prospectus schedules, the Minister may set out specific information requirements for prospectuses that relate to the admission to trading on a regulated market of non-equity securities which:

(a) are to be traded only on a regulated market, or a specific segment thereof, to which only qualified investors can have access for the purposes of trading in such securities; or

(b) have a denomination per unit of at least EUR 100 000.

Those information requirements shall be appropriate, taking into account the information needs of the investors concerned.

2.The Minister may by regulations supplement this Regulation by setting out the schedule defining the minimum information to be included in the universal registration document.

Such a schedule shall ensure that the universal registration document contains all the necessary information on the issuer so that the same universal registration document can be used equally for the subsequent offer to the public or admission to trading on a regulated market of equity or non-equity securities. With regard to the financial information, the operating and financial review and prospects and the corporate governance, such information shall be aligned as much as possible with the information required to be disclosed in the annual and half-yearly financial reports referred to in sections 359 And 360 of the Act, including the management report and the corporate governance statement.

3.Regulations referred to in paragraphs 1 and 2 shall be based on the standards in the field of financial and non-financial information set out by international securities commission organisations, in particular by the International Organisation of Securities Commissions (IOSCO), and on Annexes I, II and III to this Regulation.

Article 14

Simplified disclosure regime for secondary issuances

1.The following persons may choose to draw up a simplified prospectus under the simplified disclosure regime for secondary issuances, in the case of an offer of securities to the public or of an admission to trading of securities on a regulated market:

(a) issuers whose securities have been admitted to trading on a regulated market or an SME growth market continuously for at least the last 18 months and who issue securities fungible with existing securities which have been previously issued;

(b) without prejudice to Article 1(5), issuers whose equity securities have been admitted to trading on a regulated market or an SME growth market continuously for at least the last 18 months and who issue non-equity securities or securities giving access to equity securities fungible with the existing equity securities of the issuer already admitted to trading;

(c) offerors of securities admitted to trading on a regulated market or an SME growth market continuously for at least the last 18 months;

(d) issuers whose securities have been offered to the public and admitted to trading on an SME growth market continuously for at least two years, and who have fully complied with reporting and disclosure obligations throughout the period of being admitted to trading, and who seek admission to trading on a regulated market of securities fungible with existing securities which have been previously issued.

The simplified prospectus shall consist of a summary in accordance with Article 7, a specific registration document which may be used by persons referred to in points (a), (b) and (c) of the first subparagraph of this paragraph and a specific securities note which may be used by persons referred to in points (a) and (c) of that subparagraph.

2.By way of derogation from Article 6(1), and without prejudice to Article 18(1), the simplified prospectus shall contain the relevant reduced information which is necessary to enable investors to understand:

(a) the prospects of the issuer and the significant changes in the business and the financial position of the issuer and the guarantor that have occurred since the end of the last financial year, if any;

(b) the rights attaching to the securities;

(c) the reasons for the issuance and its impact on the issuer, including on its overall capital structure, and the use of the proceeds.

The information contained in the simplified prospectus shall be written and presented in an easily analysable, concise and comprehensible form and shall enable investors to make an informed investment decision. It shall also take into account the regulated information that has already been disclosed to the public pursuant to–

(a) Chapter 4 of Part 19 of the Act; and

(b) the Market Abuse Regulation.

Those issuers referred to in point (d) of the first subparagraph of paragraph 1 of this Article that are or are not required to prepare consolidated accounts in line with Chapter 3 of Part 7 of the Companies Act 2014 after their securities' admission to trading on a regulated market shall compile the most recent financial information pursuant to point (a) of the second subparagraph of paragraph 3 of this Article, containing comparative information for the previous year included in the simplified prospectus, in accordance with Article 23a of Regulation (EU) 2019/980.

Third country issuers whose securities have been admitted to trading on an SME growth market shall compile the most recent financial information pursuant to point (a) of the second subparagraph of paragraph 3 of this Article, containing comparative information for the previous year included in the simplified prospectus in accordance with Article 23a of Regulation (EU) 2019/980.

Those issuers referred to in point (d) of the first subparagraph of paragraph 1 of this Article that are not required to prepare consolidated accounts in line with Directive 2013/34/EU after their securities’ admission to trading on a regulated market shall compile the most recent financial information pursuant to point (a) of the second subparagraph of paragraph 3 of this Article, containing comparative information for the previous

year included in the simplified prospectus, in accordance with the national law of the Member State in which the issuer is incorporated.

Third country issuers whose securities have been admitted to trading on an SME growth market shall compile the most recent financial information pursuant to point (a) of the second subparagraph of paragraph 3 of this Article, containing comparative information for the previous year included in the simplified prospectus, in accordance with their national accounting standards, provided that those standards are equivalent to Regulation (EC) No 1606/2002. If those national accounting standards are not equivalent to the International Financial Reporting Standards, the financial information shall be restated pursuant to Regulation (EC) No 1606/2002.

3.The Minister may by regulations supplement this Regulation by setting out the schedules specifying the reduced information to be included under the simplified disclosure regime referred to in paragraph 1.

The schedules shall include in particular:

(a) the annual and half-yearly financial information published over the 12 months prior to the approval of the prospectus;

(b) where applicable, profit forecasts and estimates;

(c) a concise summary of the relevant information disclosed under the Market Abuse Regulation over the 12 months prior to the approval of the prospectus;

(d) risk factors;

(e) for equity securities, including securities giving access to equity securities, the working capital statement, the statement of capitalisation and indebtedness, a disclosure of relevant conflicts of interest and related-party transactions, major shareholders and, where applicable, *pro forma* financial information.

When specifying the reduced information to be included under the simplified disclosure regime, the Minister shall take into account the need to facilitate fundraising on capital markets and the importance of reducing the cost of capital. In order to avoid imposing unnecessary burdens on issuers, when specifying the reduced information, the Minister shall also take into account the information which an issuer is already required to disclose under Chapter 4 of Part 19 of the Act, where applicable, and the Market Abuse Regulation. The Minister shall also calibrate the reduced information so that it focusses on the information that is relevant for secondary issuances and is proportionate.

Article 15

Gibraltar Growth prospectus

1.The following persons may choose to draw up a Gibraltar Growth prospectus under the proportionate disclosure regime set out in this Article in the case of an offer of securities to the public provided that they have no securities admitted to trading on a regulated market:

(a) SMEs;

(b) issuers, other than SMEs, whose securities are traded or are to be traded on an SME growth market, provided that those issuers had an average market capitalisation of less than EUR 500 000 000 on the basis of end-year quotes for the previous three calendar years;

(c) issuers, other than those referred to in points (a) and (b), where the offer of securities to the public is of a total consideration in Gibraltar that does not exceed EUR 20 000 000 calculated over a period of 12 months, and provided that such issuers have no securities traded on an MTF and have an average number of employees during the previous financial year of up to 499;

(ca) issuers, other than SMEs, offering shares to the public at the same time as seeking admission of those shares to trading on an SME growth market, provided that such issuers have no shares already admitted to trading on an SME growth market and the combined value of the following two items is less than EUR 200 000 000 :

(i) the final offer price, or the maximum price in the case referred to in point (b)(i) of Article 17(1);

(ii) the total number of shares outstanding immediately after the share offer to the public, calculated either on the basis of the amount of shares offered to the public or, in the case referred to in point (b)(i) of Article 17(1), on the basis of the maximum amount of shares offered to the public;

(d) offerors of securities issued by issuers referred to in points (a) and (b).

A Gibraltar Growth prospectus under the proportionate disclosure regime shall be a document of a standardised format, written in a simple language and which is easy for issuers to complete. It shall consist of a specific summary based on Article 7, a specific registration document and a specific securities note. The information in the Gibraltar Growth prospectus shall be presented in a standardised sequence in accordance with the regulations referred to in paragraph 2.

2.The Minister may by regulations supplement this Regulation by specifying the reduced content and the standardised format and sequence for the Gibraltar Growth prospectus, as well as the reduced content and the standardised format of the specific summary.

The specific summary shall not impose any additional burdens or costs on issuers insofar as it shall only require the relevant information already included in the Gibraltar Growth prospectus. When specifying the standardised format of the specific summary, the Minister shall calibrate the requirements to ensure that it is shorter than the summary provided for in Article 7.

When specifying the reduced content and standardised format and sequence of the Gibraltar Growth prospectus, the Minister shall calibrate the requirements to focus on:

(a) the information that is material and relevant for investors when making an investment decision;
(b) the need to ensure proportionality between the size of the company and the cost of producing a prospectus.

In doing so, the Minister shall take into account the following:

(a) the need to ensure that the Gibraltar Growth prospectus is significantly lighter than the standard prospectus, in terms of administrative burdens and costs to issuers;
(b) the need to facilitate access to capital markets for SMEs and minimise costs for SMEs while ensuring investor confidence in investing in such companies;
(c) the various types of information relating to equity and non-equity securities needed by investors.

Those regulations shall be based on Annexes IV and V.

Article 16

Risk factors

1.The risk factors featured in a prospectus shall be limited to risks which are specific to the issuer and/or to the securities and which are material for taking an informed investment decision, as corroborated by the content of the registration document and the securities note.

When drawing up the prospectus, the issuer, the offeror or the person asking for admission to trading on a regulated market shall assess the materiality of the risk factors based on the probability of their occurrence and the expected magnitude of their negative impact.

Each risk factor shall be adequately described, explaining how it affects the issuer or the securities being offered or to be admitted to trading. The assessment of the materiality of the risk factors provided for in the second subparagraph may also be disclosed by using a qualitative scale of low, medium or high.

The risk factors shall be presented in a limited number of categories depending on their nature. In each category the most material risk factors shall be mentioned first according to the assessment provided for in the second subparagraph.

2.Risk factors shall also include those resulting from the level of subordination of a security and the impact on the expected size or timing of payments to holders of the securities in the event of bankruptcy, or any other similar procedure, including, where relevant, the insolvency of a credit institution or its resolution or restructuring in accordance with Part 17 of the Act.

3.Where there is a guarantee attached to the securities, the prospectus shall contain the specific and material risk factors pertaining to the guarantor to the extent that they are relevant to the guarantor's ability to fulfil its commitment under the guarantee.

4.*Omitted*.

5.The Minister may by regulations supplement this Regulation by specifying criteria for the assessment of the specificity and materiality of risk factors and for the presentation of risk factors across categories depending on their nature.

Article 17

Final offer price and amount of securities

1.Where the final offer price and/or amount of securities to be offered to the public, whether expressed in number of securities or as an aggregate nominal amount, cannot be included in the prospectus:

(a) the acceptances of the purchase or subscription of securities may be withdrawn for not less than two working days after the final offer price and/or amount of securities to be offered to the public has been filed; or

(b) the following shall be disclosed in the prospectus:

  (i) the maximum price and/or the maximum amount of securities, as far as they are available; or

  (ii) the valuation methods and criteria, and/or conditions, in accordance with which the final offer price is to be determined and an explanation of any valuation methods used.

2.The final offer price and amount of securities shall be filed with the competent authority and made available to the public in accordance with the arrangements set out in Article 21(2).

Article 18

Omission of information

1.The competent authority may authorise the omission from the prospectus, or constituent parts thereof, of certain information to be included therein, where it considers that any of the following conditions is met:

(a) disclosure of such information would be contrary to the public interest;

(b) disclosure of such information would be seriously detrimental to the issuer or to the guarantor, if any, provided that the omission of such information would not be likely to mislead the public with regard to facts and circumstances essential for an informed assessment of the issuer or guarantor, if any, and of the rights attached to the securities to which the prospectus relates;

(c) such information is of minor importance in relation to a specific offer or admission to trading on a regulated market and would not influence the assessment of the financial position and prospects of the issuer or guarantor, if any.

2.Subject to adequate information being provided to investors, where, exceptionally, certain information required to be included in a prospectus, or constituent parts thereof, is inappropriate to the sphere of activity or to the legal form of the issuer or of the guarantor, if any, or to the securities to which the prospectus relates, the prospectus, or constituent parts thereof, shall contain information equivalent to the required information, unless no such information exists.

3.Where securities are guaranteed by a country or territory, an issuer, an offeror or a person asking for admission to trading on a regulated market, when drawing up a prospectus in accordance with Article 4, shall be entitled to omit information pertaining to that country or territory.

4.The Minister may make technical standards specifying the cases where information may be omitted in accordance with paragraph 1.

Article 19

Incorporation by reference

1.Information may be incorporated by reference in a prospectus where it has been previously or simultaneously published electronically, drawn up in a language fulfilling the requirements of Article 27 as it had effect immediately before IP completion day where the information was published before IP completion day, and where it is contained in one of the following documents:

(a) a document which has–

(i) before IP completion day, been approved by or filed with a competent authority in accordance with this Regulation as it had effect immediately before IP completion day; or

(ii) on or after IP completion day, been approved by or filed with the competent authority in accordance with this Regulation;

(b) documents referred to in points (f) to (i) of Article 1(4) and points (e) to (h) and point (j)(v) of the first subparagraph of Article 1(5);

(c) regulated information;

(d) annual and interim financial information;

(e) audit reports and financial statements;

(f) directors' reports as referred to in sections 249 to 252B of the Companies Act 2014;

(g) corporate governance statements as referred to in section 251 of the Companies Act 2014;

(h) reports on the determination of the value of an asset or a company;

(i) remuneration reports as referred to in Regulation 9B of the Listed Companies (Members' Rights) Regulations 2011;

(j) annual reports or any disclosure of information required under regulations 36 and 37 of the Financial Services (Alternative Investment Fund Managers) Regulations 2020;

(k) memorandum and articles of association.

Such information shall be the most recent available to the issuer.

Where only certain parts of a document are incorporated by reference, a statement shall be included in the prospectus that the non-incorporated parts are either not relevant for the investor or covered elsewhere in the prospectus.

2.When incorporating information by reference, issuers, offerors or persons asking for admission to trading on a regulated market shall ensure accessibility of the information. In particular, a cross-reference list shall be provided in the prospectus in order to enable investors to identify easily specific items of information, and the prospectus shall contain hyperlinks to all documents containing information which is incorporated by reference.

3.Where possible alongside the first draft of the prospectus submitted to the competent authority, and in any case during the prospectus review process, the issuer, the offeror or the person asking for admission to trading on a regulated market shall submit in searchable electronic format any information which is incorporated by reference into the prospectus, unless such information has already been approved by or filed with the competent authority approving the prospectus.

4.The Minister may, by regulations, amend paragraph 1 of this Article by including additional types of documents required under the law of Gibraltar to be filed with or approved by a public authority.

CHAPTER IV

ARRANGEMENTS FOR APPROVAL AND PUBLICATION OF THE PROSPECTUS

Article 20

Scrutiny and approval of the prospectus

1.A prospectus shall not be published unless the competent authority has approved it, or all of its constituent parts in accordance with Article 10.

2.The competent authority shall notify the issuer, the offeror or the person asking for admission to trading on a regulated market of its decision regarding the approval of the prospectus within 10 working days of the submission of the draft prospectus.

Where the competent authority fails to take a decision on the prospectus within the time limits laid down in the first subparagraph of this paragraph and paragraphs 3 and 6, such failure shall not be deemed to constitute approval of the application.

3.The time limit set out in the first subparagraph of paragraph 2 shall be extended to 20 working days where the offer to the public involves securities issued by an issuer that does not have any securities admitted to trading on a regulated market and that has not previously offered securities to the public.

The time limit of 20 working days shall only be applicable for the initial submission of the draft prospectus. Where subsequent submissions are necessary in accordance with paragraph 4, the time limit set out in the first subparagraph of paragraph 2 shall apply.

4.Where the competent authority finds that the draft prospectus does not meet the standards of completeness, comprehensibility and consistency necessary for its approval and/or that changes or supplementary information are needed:

(a) it shall inform the issuer, the offeror or the person asking for admission to trading on a regulated market of that fact promptly and at the latest within the time limits set out in the first subparagraph of paragraph 2 or, as applicable, paragraph 3, as calculated from the submission of the draft prospectus and/or the supplementary information; and

(b) it shall clearly specify the changes or supplementary information that are needed.

In such cases, the time limit set out in the first subparagraph of paragraph 2 shall then apply only from the date on which a revised draft prospectus or the supplementary information requested are submitted to the competent authority.

5.Where the issuer, the offeror or the person asking for admission to trading on a regulated market is unable or unwilling to make the necessary changes or to provide the supplementary information requested in accordance with paragraph 4, the competent authority shall be entitled to refuse the approval of the prospectus and terminate the review process. In such case, the competent authority shall notify the issuer, the offeror or the person asking for admission to trading on a regulated market of its decision and indicate the reasons for such refusal.

6.By way of derogation from paragraphs 2 and 4, the time limits set out in the first subparagraph of paragraph 2 and paragraph 4 shall be reduced to five working days for a prospectus consisting of separate documents drawn up by frequent issuers referred to in Article 9(11). The frequent issuer shall inform the competent authority at least five working days before the date envisaged for the submission of an application for approval.

A frequent issuer shall submit an application to the competent authority containing the necessary amendments to the universal registration document, where applicable, the securities note and the summary submitted for approval.

7.The competent authority must provide on its websites guidance on the scrutiny and approval process in order to facilitate efficient and timely approval of prospectuses. Such guidance shall include contact details for the purposes of approvals. The issuer, the offeror, the person asking for admission to trading on a regulated market or the person responsible for drawing up the prospectus shall have the possibility to directly communicate and interact with the staff of the competent authority throughout the process of approval of the prospectus.

8.*Omitted*.

9.*Omitted*.

10.The level of fees charged by the competent authority for the approval of prospectuses, of documents that are intended to become constituent parts of prospectuses in accordance with Article 10 or of supplements to prospectuses as well as for the filing of universal registration documents, amendments thereto and final terms, shall be reasonable and proportionate and shall be disclosed to the public at least on the website of the competent authority.

11.The Minister may by regulations supplement this Regulation by specifying the criteria for the scrutiny of prospectuses, in particular the completeness, comprehensibility and consistency of the information contained therein, and the procedures for the approval of the prospectus.

Article 21

Publication of the prospectus

1.Once approved, the prospectus shall be made available to the public by the issuer, the offeror or the person asking for admission to trading on a regulated market at a reasonable time in advance of, and at the latest at the beginning of, the offer to the public or the admission to trading of the securities involved.

In the case of an initial offer to the public of a class of shares that is admitted to trading on a regulated market for the first time, the prospectus shall be made available to the public at least six working days before the end of the offer.

2.The prospectus, whether a single document or consisting of separate documents, shall be deemed available to the public when published in electronic form on any of the following websites:

(a) the website of the issuer, the offeror or the person asking for admission to trading on a regulated market;

(b) the website of the financial intermediaries placing or selling the securities, including paying agents;

(c) the website of the regulated market where the admission to trading is sought, or where no admission to trading on a regulated market is sought, the website of the operator of the MTF.

3.The prospectus shall be published on a dedicated section of the website which is easily accessible when entering the website. It shall be downloadable, printable and in searchable electronic format that cannot be modified.

The documents containing information incorporated by reference in the prospectus, the supplements and/or final terms related to the prospectus and a separate copy of the summary shall be accessible under the same section alongside the prospectus, including by way of hyperlinks where necessary.

The separate copy of the summary shall clearly indicate the prospectus to which it relates.

4.Access to the prospectus shall not be subject to the completion of a registration process, the acceptance of a disclaimer limiting legal liability or the payment of a fee. Warnings specifying the jurisdiction(s) in which an offer or an admission to trading is being made shall not be considered to be disclaimers limiting legal liability.

5.The competent authority shall publish on its website all the prospectuses approved or at least the list of prospectuses approved, including a hyperlink to the dedicated website sections referred to in paragraph 3 of this Article. The published list, including the hyperlinks, shall be kept up-to-date and each item shall remain on the website at least for the period referred to in paragraph 7 of this Article.

6.*Omitted*.

7.All prospectuses approved shall remain publicly available in electronic form for at least 10 years after their publication on the websites referred to in paragraph 2.

Where hyperlinks are used for information incorporated by reference in the prospectus, and the supplements and/or final terms related to the prospectus, such hyperlinks shall be functional for the period referred to in the first subparagraph.

8.An approved prospectus shall contain a prominent warning stating when the validity of the prospectus will expire. The warning shall also state that the obligation to supplement a prospectus in the event of significant new factors, material mistakes or material inaccuracies does not apply when a prospectus is no longer valid.

9.In the case of a prospectus comprising several documents and/or incorporating information by reference, the documents and information that constitute the prospectus may be published and distributed separately provided that those documents are made available to the public in accordance with paragraph 2. Where a prospectus consists of separate documents in accordance with Article 10, each of those constituent documents, except for documents incorporated by reference, shall indicate that it is only one part of the prospectus and where the other constituent documents may be obtained.

10.The text and the format of the prospectus, and any supplement to the prospectus made available to the public, shall at all times be identical to the original version approved by the competent authority.

11.A copy of the prospectus on a durable medium shall be delivered to any potential investor, upon request and free of charge, by the issuer, the offeror, the person asking for admission to trading on a regulated market or the financial intermediaries placing or selling the securities. In the event that a potential investor makes a specific demand for a paper copy, the issuer, the offeror, the person asking for admission to trading on a regulated market or a financial intermediary placing or selling the securities shall deliver a printed version of the prospectus. Delivery shall be limited to jurisdictions in which the offer of securities to the public is made.

12.The Minister may make technical standards–

(a) to specify further the requirements relating to the publication of the prospectus; or

(b) to specify the data necessary for the classification of prospectuses referred to in paragraph 5 and the practical arrangements to ensure that such data, including the ISINs of the securities and the LEIs of the issuers, offerors and guarantors, is machine readable.

Article 22

Advertisements

1.Any advertisement relating either to an offer of securities to the public or to an admission to trading on a regulated market shall comply with the principles contained in paragraphs 2 to 5. Paragraphs 2 to 4 and point (b) of paragraph 5 shall apply only to cases where the issuer, the offeror or the person asking for admission to trading on a regulated market is subject to the obligation to draw up a prospectus.

2.Advertisements shall state that a prospectus has been or will be published and indicate where investors are or will be able to obtain it.

3.Advertisements shall be clearly recognisable as such. The information contained in an advertisement shall not be inaccurate or misleading and shall be consistent with the information contained in the prospectus, where already published, or with the information required to be in the prospectus, where the prospectus is yet to be published.

4.All information disclosed in an oral or written form concerning the offer of securities to the public or the admission to trading on a regulated market, even where not for advertising purposes, shall be consistent with the information contained in the prospectus.

5.In the event that material information is disclosed by an issuer or an offeror and addressed to one or more selected investors in oral or written form, such information shall, as applicable, either:

(a) be disclosed to all other investors to whom the offer is addressed, in the event that a prospectus is not required to be published in accordance with Article 1(4) or (5); or

(b) be included in the prospectus or in a supplement to the prospectus in accordance with Article 23(1), in the event that a prospectus is required to be published.

6.The competent authority shall have the power to exercise control over the compliance of advertising activity, relating to an offer of securities to the public or an admission to trading on a regulated market, with paragraphs 2 to 4.

Without prejudice to Article 32(1), scrutiny of the advertisements by the competent authority shall not constitute a precondition for the offer of securities to the public or the admission to trading to a regulated market to take place in Gibraltar.

7.*Omitted*.

8.*Omitted*.

9.The Minister may make technical standards to specify further the provisions concerning advertisements laid down in paragraphs 2 to 4, including to specify the provisions concerning the dissemination of advertisements.

10.*Omitted*.

11.This Article is without prejudice to other applicable provisions of the law of Gibraltar.

Article 23

Supplements to the prospectus

1.Every significant new factor, material mistake or material inaccuracy relating to the information included in a prospectus which may affect the assessment of the securities and which arises or is noted between the time when the prospectus is approved and the closing of the offer period or the time when trading on a regulated market begins, whichever occurs later, shall be mentioned in a supplement to the prospectus without undue delay.

Such a supplement shall be approved in the same way as a prospectus in a maximum of five working days and published in accordance with at least the same arrangements as were applied when the original prospectus was published in accordance with Article 21. The summary shall also be supplemented, where necessary, to take into account the new information included in the supplement.

2.Where the prospectus relates to an offer of securities to the public, investors who have already agreed to purchase or subscribe for the securities before the supplement is published shall have the right, exercisable within two working days after the publication of the supplement, to withdraw their acceptances, provided that the significant new factor, material mistake or material inaccuracy referred to in paragraph 1 arose or was noted before the closing of the offer period or the delivery of the securities, whichever occurs first. That period may be extended by the issuer or the offeror. The final date of the right of withdrawal shall be stated in the supplement.

The supplement shall contain a prominent statement concerning the right of withdrawal, which clearly states:

(a) that a right of withdrawal is only granted to those investors who had already agreed to purchase or subscribe for the securities before the supplement was published and where the securities had not yet been delivered to the investors at the time when the significant new factor, material mistake or material inaccuracy arose or was noted;

(b) the period in which investors can exercise their right of withdrawal; and

(c) whom investors may contact should they wish to exercise the right of withdrawal.

3.Where the securities are purchased or subscribed through a financial intermediary, that financial intermediary shall inform investors of the possibility of a supplement being published, where and when it would be published and that the financial intermediary would assist them in exercising their right to withdraw acceptances in such case.

The financial intermediary shall contact investors on the day when the supplement is published.

Where the securities are purchased or subscribed directly from the issuer, that issuer shall inform investors of the possibility of a supplement being published and where it would be published and that in such case, they could have a right to withdraw the acceptance.

4.Where the issuer prepares a supplement concerning information in the base prospectus that relates to only one or several individual issues, the right of investors to withdraw their acceptances pursuant to paragraph 2 shall only apply to the relevant issue(s) and not to any other issue of securities under the base prospectus.

5.In the event that the significant new factor, material mistake or material inaccuracy referred to in paragraph 1 concerns only the information contained in a registration document or a universal registration document and that registration document or universal registration document is simultaneously used as a constituent part of several prospectuses, only one supplement shall be drawn up and approved. In that case, the supplement shall mention all the prospectuses to which it relates.

6.When scrutinising a supplement before approval, the competent authority may request that the supplement contains a consolidated version of the supplemented prospectus, registration document or universal registration document in an annex, where such consolidated version is necessary to ensure comprehensibility of the information given in the prospectus. Such a request shall be deemed to be a request for supplementary information under Article 20(4). An issuer may in any event voluntarily include a consolidated version of the supplemented prospectus, registration document or universal registration document in an annex to the

supplement.

7.The Minister may make technical standards to specify situations where a significant new factor, material mistake or material inaccuracy relating to the information included in the prospectus requires a supplement to the prospectus to be published.

CHAPTER V

Omitted

Articles 24 to 27

CHAPTER VI

SPECIFIC RULES IN RELATION TO ISSUERS ESTABLISHED IN THIRD COUNTRIES

Article 28

Offer of securities to the public or admission to trading on a regulated market made under a prospectus drawn up in accordance with this Regulation

Where a third country issuer intends to offer securities to the public in Gibraltar or to seek admission to trading of securities on a regulated market established in Gibraltar under a prospectus drawn up in accordance with this Regulation, it shall obtain approval of its prospectus, in accordance with Article 20, from the competent authority.

Once a prospectus is approved in accordance with the first subparagraph, it shall entail all the rights and obligations provided for a prospectus under this Regulation and the prospectus and the third country issuer shall be subject to all of the provisions of this Regulation under the supervision of the competent authority.

Article 29

Offer of securities to the public or admission to trading on a regulated market made under a prospectus drawn up in accordance with the laws of a third country

1.The competent authority may approve a prospectus for an offer of securities to the public or for admission to trading on a regulated market, drawn up in accordance with, and which is subject to, the national laws of the third country issuer, provided that:

(a) the information requirements imposed by those third country laws are equivalent to the requirements under this Regulation; and

(b) the competent authority has concluded cooperation arrangements with the relevant supervisory authorities of the third country issuer in accordance with Article 30.

2.*Omitted*.

3.The Minister may by regulations supplement this Regulation by establishing general equivalence criteria, based on the requirements laid down in Articles 6, 7, 8 and 13.

On the basis of the above criteria, the Minister may by regulations state that the information requirements imposed by the national law of a third country are equivalent to the requirements under this Regulation.

Article 30

Cooperation with third countries

1.For the purpose of Article 29 and, where deemed necessary, for the purpose of Article 28, the competent authority shall conclude cooperation arrangements with supervisory authorities of third countries concerning the exchange of information with supervisory authorities in third countries and the enforcement of obligations arising under this Regulation in third countries unless that third country is identified by Gibraltar as a high-risk third country as referred to in section 17(1)(b) of the Proceeds of Crime Act 2015.

Those cooperation arrangements shall at least ensure an efficient exchange of information that allows the competent authority to carry out its duties under this Regulation.

2.*Omitted*.

3.The competent authority shall conclude cooperation arrangements on exchange of information with the supervisory authorities of third countries only where the information disclosed is subject to guarantees of professional secrecy which are at least equivalent to those set out in Article 35. Such exchange of information must be intended for the performance of the tasks of the competent authority.

4.The Minister may make technical standards to determine the minimum content of the cooperation arrangements referred to in paragraph 1 and the template document to be used therefor.

CHAPTER VII

THE COMPETENT AUTHORITY

Article 31

Delegation by competent authority

1.*Omitted*.

2.The competent authority may delegate to third parties the tasks of electronic publication of approved prospectuses and related documents.

Any such delegation of tasks shall be made in a specific decision setting out the following:

(a) the tasks to be undertaken and the conditions under which they are to be carried out;

(b) a clause obliging the third party in question to act and be organised in such a manner as to avoid conflicts of interest and to ensure that information obtained while carrying out the delegated tasks is not used unfairly or to prevent competition; and

(c) all arrangements entered into between the competent authority and the third party to which tasks are delegated.

The final responsibility for supervising compliance with this Regulation and for approving the prospectus shall lie with the competent authority.

3.Paragraphs 1 and 2 are without prejudice to the possibility for a Member State to make separate legal and administrative arrangements for overseas European territories for whose external relations that Member State is responsible.

Article 32

Powers of competent authority

1.*Omitted*.

2.*Omitted*.

3.*Omitted*.

4.This Regulation applies without limiting Part 20 of the Act.

5.A person making information available to the competent authority in accordance with this Regulation shall not be considered to be infringing any restriction on disclosure of information imposed by contract or by any legislative, regulatory or administrative provision, and shall not be subject to liability of any kind related to such notification.

Articles 33 to 34

Omitted

Article 35

Professional secrecy

1.All information exchanged between the competent authority, the Minister and any other authority (including a third country authority), or received by the competent authority, the Minister or any other authority (including a third country authority) from another authority under this Regulation that concerns business or operational conditions and other economic or personal affairs shall be considered to be confidential and shall be subject to the requirements of professional secrecy, except where the authority from which the information is received states at the time of communication that such information may be disclosed or such disclosure is necessary for legal proceedings.

2.The obligation of professional secrecy shall apply to all persons who work or who have worked for the competent authority or for any third party to whom the competent authority has delegated its powers. Information covered by professional secrecy may not be disclosed to any other person or authority except by virtue of provisions laid down by the law of Gibraltar.

Article 36

Data protection

With regard to the processing of personal data within the framework of this Regulation, the competent authority shall carry out its tasks for the purposes of this Regulation in accordance with the data protection legislation (within the meaning of section 2 of the Data Protection Act 2004).

Article 37

Omitted

CHAPTER VIII

Omitted

Articles 38 to 43

Omitted

CHAPTER IX

REGULATIONS

Article 44

Regulations

Any power to make regulations conferred on the Minister by this Regulation includes the power to–

(a) make any supplementary, incidental, consequential, transitional or saving provision which the Minister considers necessary or expedient; and

(b) make different provision for different purposes.

Article 45

Omitted

CHAPTER X

FINAL PROVISIONS

Article 46

Repeal

1.Directive 2003/71/EC is repealed with effect from 21 July 2019, except for:

(a) points (a) and (g) of Article 4(2) of Directive 2003/71/EC, which are repealed with effect from 20 July 2017; and

(b) point (h) of Article 1(2) and point (e) of the first subparagraph of Article 3(2) of Directive 2003/71/EC, which are repealed with effect from 21 July 2018.

2.References to Directive 2003/71/EC shall be construed as references to this Regulation and shall be read in accordance with the correlation table in Annex VI to this Regulation.

3.Prospectuses approved in accordance with the national laws transposing Directive 2003/71/EC before 21 July 2019 shall continue to be governed by that national law until the end of their validity, or until twelve months have elapsed after 21 July 2019, whichever occurs first.

Articles 47 to 48

Omitted

Article 49

Entry into force and application

1.This Regulation shall enter into force on the twentieth day following that of its publication in the *Official Journal of the European Union*.

2.Without prejudice to Article 44(2), this Regulation shall apply from 21 July 2019, except for Article 1(3) and Article 3(2) which shall apply from 21 July 2018 and points (a), (b) and (c) of the first subparagraph of Article 1(5) and the second subparagraph of Article 1(5) which shall apply from 20 July 2017.

ANNEX I

PROSPECTUS

I.Summary

II.Identity of directors, senior management, advisers and auditors

The purpose is to identify the company representatives and other individuals involved in the company's offer or admission to trading; these are the persons responsible for drawing up the prospectus and those responsible for auditing the financial statements.

III.Offer statistics and expected timetable

The purpose is to provide essential information regarding the conduct of any offer and the identification of important dates relating to that offer.

A.Offer statistics
B.Method and expected timetable

IV.Essential information

The purpose is to summarise essential information about the company's financial condition, capitalisation and risk factors. If the financial statements included in the document are restated to reflect material changes in the company's group structure or accounting policies, the selected financial data must also be restated.

A.Selected financial data
B.Capitalisation and indebtedness (for equity securities only)
C.Reasons for the offer and use of proceeds
D.Risk factors

V.Information on the company

The purpose is to provide information about the company's business operations, the products it makes or the services it provides, and the factors which affect the business. It is also intended to provide information regarding the adequacy and suitability of the company's properties, plant and equipment, as well as its plans for future capacity increases or decreases.

A.History and development of the company
B.Business overview
C.Organisational structure
D.Property, plant and equipment

VI.Operating and financial review and prospects

The purpose is to provide the management's explanation of factors that have affected the company's financial condition and results of operations for the historical periods covered by the financial statements, and management's assessment of factors and trends which are expected to have a material effect on the company's financial condition and results of operations in future periods.

A.Operating results
B.Liquidity and capital resources
C.Research and development, patents and licences, etc.
D.Trends

VII.Directors, senior management and employees

The purpose is to provide information concerning the company's directors and managers that will allow investors to assess their experience, qualifications and levels of remuneration, as well as their relationship with the company.

A.Directors and senior management
B.Remuneration
C.Board practices
D.Employees
E.Share ownership

VIII.Major shareholders and related-party transactions

The purpose is to provide information regarding the major shareholders and others that may control or have an influence on the company. It also provides information regarding the transactions the company has entered into with persons affiliated with the company and whether the terms of such transactions are fair to the company.

A.Major shareholders
B.Related-party transactions
C.Interests of experts and advisers

IX.Financial information

The purpose is to specify which financial statements must be included in the document, as well as the periods to be covered, the age of the financial statements and other information of a financial nature. The accounting and auditing principles that will be accepted for use in preparation and audit of the financial statements will be determined in accordance with international accounting and auditing standards.

A.Consolidated statements and other financial information
B.Significant changes

X.Details of the offer and admission to trading details

The purpose is to provide information regarding the offer and the admission to trading of securities, the plan for distribution of the securities and related matters.

A.Offer and admission to trading
B.Plan for distribution
C.Markets
D.Holders of securities who are selling
E.Dilution (for equity securities only)
F.Expenses of the issue

XI.Additional information

The purpose is to provide information, most of which is of a statutory nature, that is not covered elsewhere in the prospectus.

A.Share capital
B.Memorandum and articles of association
C.Material contracts
D.Exchange controls
E.Warning on tax consequences
F.Dividends and paying agents
G.Statement by experts
H.Documents on display
I.Subsidiary information

ANNEX II

REGISTRATION DOCUMENT

I.Identity of directors, senior management, advisers and auditors

The purpose is to identify the company representatives and other individuals involved in the company's offer or admission to trading; these are the persons responsible for drawing up the prospectus and those responsible for auditing the financial statements.

II.Essential information about the issuer

The purpose is to summarise essential information about the company's financial condition, capitalisation and risk factors. If the financial statements included in the document are restated to reflect material changes in the company's group structure or accounting policies, the selected financial data must also be restated.

A.Selected financial data
B.Capitalisation and indebtedness (for equity securities only)
C.Risk factors relating to the issuer

III.Information on the company

The purpose is to provide information about the company's business operations, the products it makes or the services it provides and the factors which affect the business. It is also intended to provide information regarding the adequacy and suitability of the company's properties, plants and equipment, as well as its plans for future capacity increases or decreases.

A.History and development of the company
B.Business overview
C.Organisational structure
D.Property, plants and equipment

IV.Operating and financial review and prospects

The purpose is to provide the management's explanation of factors that have affected the company's financial condition and results of operations for the historical periods covered by the financial statements, and management's assessment of factors and trends which are expected to have a material effect on the company's financial condition and results of operations in future periods.

A.Operating results
B.Liquidity and capital resources
C.Research and development, patents and licences, etc.

D.Trends

V.Directors, senior management and employees

The purpose is to provide information concerning the company's directors and managers that will allow investors to assess their experience, qualifications and levels of remuneration, as well as their relationship with the company.

A.Directors and senior management
B.Remuneration
C.Board practices
D.Employees
E.Share ownership

VI.Major shareholders and related-party transactions

The purpose is to provide information regarding the major shareholders and others that may control or have an influence on the company. It also provides information regarding the transactions the company has entered into with persons affiliated with the company and whether the terms of such transactions are fair to the company.

A.Major shareholders
B.Related-party transactions
C.Interests of experts and advisers

VII.Financial information

The purpose is to specify which financial statements must be included in the document, as well as the periods to be covered, the age of the financial statements and other information of a financial nature. The accounting and auditing principles that will be accepted for use in preparation and audit of the financial statements will be determined in accordance with international accounting and auditing standards.

A.Consolidated statements and other financial information
B.Significant changes

VIII.Additional information

The purpose is to provide information, most of which is of a statutory nature, that is not covered elsewhere in the prospectus.

A.Share capital
B.Memorandum and articles of association
C.Material contracts
D.Statement by experts
E.Documents on display
F.Subsidiary information

ANNEX III

SECURITIES NOTE

I.Identity of directors, senior management, advisers and auditors

The purpose is to identify the company representatives and other individuals involved in the company's offer or admission to trading; these are the persons responsible for drawing up the prospectus and those responsible for auditing the financial statements.

II.Offer statistics and expected timetable

The purpose is to provide essential information regarding the conduct of any offer and the identification of important dates relating to that offer.

A.Offer statistics
B.Method and expected timetable

III.Essential information about the issuer

The purpose is to summarise essential information about the company's financial condition, capitalisation and risk factors. If the financial statements included in the document are restated to reflect material changes in the company's group structure or accounting policies, the selected financial data must also be restated.

A.Capitalisation and indebtedness (for equity securities only)
B.Information concerning working capital (for equity securities only)
C.Reasons for the offer and use of proceeds
D.Risk factors

IV.Essential information about the securities

The purpose is to provide essential information about the securities to be offered to the public and/or admitted to trading.

A.A description of the type and class of the securities being offered to the public and/or admitted to trading
B.Currency of the securities issued
C.The relative seniority of the securities in the issuer's capital structure in the event of the issuer's insolvency, including, where applicable, information on the level of subordination of the securities and the potential impact on the investment in the event of a resolution under Part 17 of the Act
D.The dividend payout policy, provisions relating to interest payable or a description of the underlying, including the method used to relate the underlying and the rate, and an indication where information about the past and future performance of the underlying and its volatility can be obtained
E.A description of any rights attached to the securities, including any limitations of those rights, and the procedure for the exercise of those rights

V.Interests of experts

The purpose is to provide information regarding transactions the company has entered into with experts or advisers employed on a contingent basis.

VI.Details of the offer and admission to trading

The purpose is to provide information regarding the offer and the admission to trading of securities, the plan for distribution of the securities and related matters.

A.Offer and admission to trading
B.Plan for distribution
C.Markets
D.Selling securities holders
E.Dilution (for equity securities only)
F.Expenses of the issue

VII.Additional information

The purpose is to provide information, most of which is of a statutory nature, that is not covered elsewhere in the prospectus.

A.Exchange controls
B.Warning on tax consequences
C.Dividends and paying agents
D.Statement by experts

ANNEX IV

REGISTRATION DOCUMENT FOR THE GIBRALTAR GROWTH PROSPECTUS

I.Responsibility for the registration document

The purpose is to identify the issuer and its representatives and other individuals involved in the company's offer; these are the persons responsible for drawing up the registration document.

II.Strategy, performance and business environment

The purpose is to inform about the company's strategy and objectives related to development and future performance and to provide information about the company's business operations, the products it makes or the services it provides, its investments and the factors which affect the business. Furthermore, the risk factors specific to the company and relevant trend information must be included.

III.Corporate governance

The purpose is to provide information concerning the company's directors and managers that will allow investors to assess their experience, qualifications and levels of remuneration, as well as their relationship with the company.

IV.Financial statements and key performance indicators

The purpose is to specify which financial statements and key performance indicators must be included in the document covering the two latest financial years (for equity securities) or the last financial year (for non-equity securities) or such shorter period during which the issuer has been in operation.

V.Operating and financial review (only for equity securities issued by companies with market capitalisation above EUR 200 000 000).

The purpose is to provide information about the financial condition and operating results if the management reports and consolidated management reports, referred to in, and presented and prepared in accordance with, sections 249 to 252B the Companies Act 2014 for the periods covered by the historical financial information, are not included in the Gibraltar Growth prospectus.

VI.Shareholders' information

The purpose is to provide information about legal and arbitration proceedings, conflicts of interest and related-party transactions as well as information on the share capital.

ANNEX V

SECURITIES NOTE FOR THE GIBRALTAR GROWH PROSPECTUS

I.Responsibility for the securities note

The purpose is to identify the issuer and its representatives and other individuals involved in the company's offer or admission to trading; these are the persons responsible for drawing up the prospectus.

II. Statement of capitalisation and indebtedness (only for equity securities issued by companies with market capitalisation above EUR 200 000 000) and working capital statement (only for equity securities).

The purpose is to provide information on the issuer's capitalisation and indebtedness and information as to whether the working capital is sufficient to meet the issuer's present requirements or, if not, how the issuer proposes to provide the additional working capital needed.

III.Terms and conditions of the securities

The purpose is to provide essential information regarding the terms and conditions of the securities and a description of any rights attached to the securities. Furthermore, the risk factors specific to the securities must be included.

IV.Details of the offer and expected timetable

The purpose is to provide information regarding the offer and, where applicable, the admission to trading on an MTF, including the final offer price and amount of securities (whether in number of securities or aggregate nominal amount) which will be offered, the reasons for the offer, the plan for distribution of the securities, the use of proceeds of the offer, the expenses of the issuance and offer, and dilution (for equity securities only).

V.Information on the guarantor

The purpose is to provide information on the guarantor of the securities where applicable, including essential information about the guarantee attached to the securities, the risk factors and financial information specific to the guarantor.

ANNEX VI

CORRELATION TABLE

(referred to in Article 46)

Directive 2003/71/EC	This Regulation
Article 1(1)	Article 1(1)
Article 1(2)(a)	Article 1(2)(a)
Article 1(2)(b)	Article 1(2)(b)
Article 1(2)(c)	Article 1(2)(c)
Article 1(2)(d)	Article 1(2)(d)
Article 1(2)(e)	Article 1(2)(e)
Article 1(2)(f)	—
Article 1(2)(g)	Article 1(2)(f)
Article 1(2)(h)	Article 1(3)
Article 1(2)(i)	—
Article 1(2)(j)	Article 1(4)(j) and Article 1(5), first subparagraph, point (i)
Article 1(3)	Article 4

Article 1(4)	—
Article 2(1)(a)	Article 2(a)
Article 2(1)(b)	Article 2(b)
Article 2(1)(c)	Article 2(c)
Article 2(1)(d)	Article 2(d)
Article 2(1)(e)	Article 2(e)
Article 2(1)(f)	Article 2(f)
Article 2(1)(g)	Article 2(g)
Article 2(1)(h)	Article 2(h)
Article 2(1)(i)	Article 2(i)
Article 2(1)(j)	Article 2(j)
Article 2(1)(k)	—
Article 2(1)(l)	—
Article 2(1)(m)	Article 2(m)
Article 2(1)(n)	Article 2(n)
Article 2(1)(o)	Article 2(p)
Article 2(1)(p)	Article 2(q)
Article 2(1)(q)	Article 2(r)
Article 2(1)(r)	Article 2(s)
Article 2(1)(s)	—
Article 2(1)(t)	—
Article 2(4)	—
Article 3(1)	Article 3(1)
Article 3(2)(a)	Article 1(4)(a)
Article 3(2)(b)	Article 1(4)(b)
Article 3(2)(c)	Article 1(4)(d)
Article 3(2)(d)	Article 1(4)(c)
Article 3(2)(e)	—
Article 3(2), second and third subparagraphs	Article 5(1)
Article 3(3)	Article 3(3)
Article 3(4)	—
Article 4(1)(a)	Article 1(4)(e)
Article 4(1)(b)	Article 1(4)(f)
Article 4(1)(c)	Article 1(4)(g)
Article 4(1)(d)	Article 1(4)(h)
Article 4(1)(e)	Article 1(4)(i)

Article 4(1), second to fifth subparagraphs	—
Article 4(2)(a)	Article 1(5), first subparagraph, point (a)
Article 4(2)(b)	Article 1(5), first subparagraph, point (d)
Article 4(2)(c)	Article 1(5), first subparagraph, point (e)
Article 4(2)(d)	Article 1(5), first subparagraph, point (f)
Article 4(2)(e)	Article 1(5), first subparagraph, point (g)
Article 4(2)(f)	Article 1(5), first subparagraph, point (h)
Article 4(2)(g)	Article 1(5), first subparagraph, points (b) and (c)
Article 4(2)(h)	Article 1(5), first subparagraph, point (j)
Article 4(3)	Article 1(7)
Article 5(1)	Article 6(1) and (2), Article 14(2)
Article 5(2)	Article 7
Article 5(3)	Article 6(3)
Article 5(4), first subparagraph	Article 8(1)
Article 5(4), second subparagraph	Article 8(10)
Article 5(4), third subparagraph, first sentence	Article 8(5) and Article 25(4)
Article 5(4), third subparagraph, second sentence	Article 8(4)
Article 5(5)	Article 13(1) and Article 7(13)
Article 6(1)	Article 11(1)
Article 6(2)	Article 11(2)
Article 7(1)	Article 13(1), first subparagraph
Article 7(2)(a)	Article 13(1), second subparagraph, point (a)
Article 7(2)(b)	Article 13(1), second subparagraph, point (b)
Article 7(2)(c)	Article 13(1), second subparagraph, point (c)
Article 7(2)(d)	Article 13(1), second subparagraph, point (c)
Article 7(2)(e)	Article 15(2)
Article 7(2)(f)	Article 13(1), second subparagraph, point (d)
Article 7(2)(g)	Article 14(3)
Article 7(3)	Article 13(3)
Article 7(4)	—
Article 8(1), first subparagraph, point (a)	Article 17(1), first subparagraph, point (b)
Article 8(1), first subparagraph, point (b)	Article 17(1), first subparagraph, point (a)
Article 8(1), second subparagraph	Article 17(2)
Article 8(2)	Article 18(1)
Article 8(3)	Article 18(2)

Article 8(3a)	Article 18(3)
Article 8(4)	Article 18(4), first subparagraph
Article 8(5), first subparagraph	—
Article 8(5), second subparagraph	—
Article 9(1)	Article 12(1)
Article 9(2)	Article 12(1)
Article 9(3)	Article 12(1)
Article 9(4)	Article 12(2)
Article 11(1)	Article 19(1)
Article 11(2)	Article 19(2)
Article 11(3)	Article 19(4)
Article 12(1)	Article 10(1), first subparagraph
Article 12(2)	Article 10(1), second subparagraph
Article 12(3)	—
Article 13(1)	Article 20(1)
Article 13(2)	Article 20(2)
Article 13(3)	Article 20(3)
Article 13(4)	Article 20(4)
Article 13(5)	Article 20(8)
Article 13(6)	Article 20(9)
Article 13(7)	—
Article 14(1)	Article 21(1)
Article 14(2)	Article 21(2)
Article 14(3)	—
Article 14(4)	Article 21(5)
Article 14(4a)	Article 21(6)
Article 14(5)	Article 21(9)
Article 14(6)	Article 21(10)
Article 14(7)	Article 21(11)
Article 14(8)	Article 21(12)
Article 15(1)	Article 22(1)
Article 15(2)	Article 22(2)
Article 15(3)	Article 22(3)
Article 15(4)	Article 22(4)
Article 15(5)	Article 22(5)
Article 15(6)	Article 22(6)

Article 15(7)	Article 22(9)
Article 16(1)	Article 23(1)
Article 16(2)	Article 23(2)
Article 16(3)	Article 23(7)
Article 17(1)	Article 24(1)
Article 17(2)	Article 24(2)
Article 18(1)	Article 25(1)
Article 18(2)	Article 25(2)
Article 18(3), first subparagraph	Article 25(3)
Article 18(3), second subparagraph	Article 21(5)
Article 18(4)	Article 25(8)
Article 19(1)	Article 27(1)
Article 19(2)	Article 27(2)
Article 19(3)	Article 27(3)
Article 19(4)	Article 27(5)
Article 20(1)	Article 29(1)
Article 20(2)	Article 29(2)
Article 20(3)	Article 29(3)
Article 21(1)	Article 31(1)
Article 21(1a)	Article 34(1)
Article 21(1b)	Article 34(2)
Article 21(2)	Article 31(2)
Article 21(3)(a)	Article 32(1)(a)
Article 21(3)(b)	Article 32(1)(b)
Article 21(3)(c)	Article 32(1)(c)
Article 21(3)(d)	Article 32(1)(d)
Article 21(3)(e)	Article 32(1)(e)
Article 21(3)(f)	Article 32(1)(f)
Article 21(3)(g)	Article 32(1)(g)
Article 21(3)(h)	Article 32(1)(h)
Article 21(3)(i)	Article 32(1)(i)
Article 21(3), second subparagraph	Article 32(1), second subparagraph
Article 21(4)(a)	Article 32(1)(l)
Article 21(4)(b)	Article 32(1)(m)
Article 21(4)(c)	—
Article 21(4)(d)	Article 32(1)(n)

Article 21(4), second subparagraph	Article 32(1), fourth subparagraph
Article 21(5)	Article 31(3) and Article 32(6)
Article 22(1)	Article 35(2)
Article 22(2), first subparagraph	Article 33(1)
Article 22(2), second subparagraph	—
Article 22(2), third subparagraph	Article 33(5)
Article 22(3)	—
Article 22(4)	Article 33(6) and (7)
Article 23(1)	Article 37(1)
Article 23(2)	Article 37(2)
Article 24(1)	Article 45(1)
Article 24(2)	Article 45(2)
Article 24(2a)	—
Article 24(3)	—
Article 24a	Article 44
Article 24b	Article 44
Article 24c	Article 44
Article 25(1)	Article 38(1)
Article 25(2)	Article 42
Article 26	Article 40
Article 27	—
Article 28	Article 46
Article 29	—
Article 30	—
Article 31	Article 48
Article 31a	—
Article 32	Article 49
Article 33	—