

Chapter 5

Vote Holder and Issuer Notification Rules

5.1 Notification of the acquisition or disposal of major shareholdings

5.1.1

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In this chapter:

- (1) references to an "*issuer*", in relation to *shares* admitted to trading on a *regulated market*, are to an *issuer* whose *shares* are admitted to trading on a *regulated market*;
- (2) references to a "*non-UK issuer*" are to an *issuer* whose *shares* are admitted to trading on a *regulated market* other than:
 - (a) a public company within the meaning of section 4(2) of the Companies Act 2006; and
 - (b) a company which is otherwise incorporated in, and whose principal place of business is in, the *UK*;
- (3) references to "*shares*" are to *shares* which are:
 - (a) already issued and carry rights to vote which are exercisable in all circumstances at general meetings of the *issuer* including *shares* (such as preference *shares*) which, following the exercise of an option for their conversion, event of default or otherwise, have become fully enfranchised for voting purposes; and
 - (b) admitted to trading on a *regulated or prescribed market*;
- (4) an acquisition or disposal of *shares* is to be regarded as effective when the relevant transaction is executed unless the transaction provides for settlement to be subject to conditions which are beyond the control of the parties in which case the acquisition or disposal is to be regarded as effective on the settlement of the transaction; and
- (5) [deleted]
- (6) for the purposes of calculating whether any percentage threshold is reached, exceeded or fallen below and in any resulting notification, the proportion of voting rights held shall if necessary be rounded down to the next whole number.

5.1.2

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A *person* must notify the *issuer* of the percentage of its voting rights he holds as *shareholder* or holds or is deemed to hold through his direct or indirect holding of financial instruments falling within **DTR 5.3.1R (1)** (or a combination of such holdings) if the percentage of those voting rights:

- (1) reaches, exceeds or falls below 3%, 4%, 5%, 6%, 7%, 8%, 9%, 10% and each 1% threshold thereafter up to 100% (or in the case of a

non-UK *issuer* on the basis of thresholds at 5%, 10%, 15%, 20%, 25%, 30%, 50% and 75%) as a result of an acquisition or disposal of *shares* or financial instruments falling within ■ DTR 5.3.1 R; or

- (2) reaches, exceeds or falls below an applicable threshold in (1) as a result of events changing the breakdown of voting rights and on the basis of information disclosed by the issuer in accordance with ■ DTR 5.6.1 R and ■ DTR 5.6.1A R;

and in the case of an issuer which is not incorporated in the *United Kingdom* a notification under (2) must be made on the basis of equivalent events and disclosed information.

[Note: articles 9(1), 9(2), 13(1) and 13a(1) of the *TD*]

Certain voting rights to be disregarded

5.1.3

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Voting rights attaching to the following *shares* are to be disregarded for the purposes of determining whether a person has a notification obligation in accordance with the thresholds in ■ DTR 5.1.2 R:

- (1) (a) *shares* acquired; or
 (b) *shares* underlying financial instruments within ■ DTR 5.3.1R(1) to the extent that such financial instruments are acquired;
 for the sole purpose of clearing and settlement within a settlement cycle not exceeding the period beginning with the transaction and ending at the close of the third *trading day* following the day of the execution of the transaction (irrespective of whether the transaction is conducted on-exchange);
- (2) (a) *shares* held; or
 (b) *shares* underlying financial instruments within ■ DTR 5.3.1R(1) to the extent that such financial instruments are held;
 by a custodian (or nominee) in its custodian (or nominee) capacity (whether operating from an establishment in the UK or elsewhere) provided such a *person* can only exercise the voting rights attached to such *shares* under instructions given in writing or by *electronic means*;
- (3) (a) *shares* held; or
 (b) *shares* underlying financial instruments within ■ DTR 5.3.1R(1) to the extent that such financial instruments are held;
 by a *market maker* acting in that capacity subject to the percentage of such *shares* not being equal to or in excess of 10% and subject to the *market maker* satisfying the criteria and complying with the conditions and operating requirements set out in ■ DTR 5.1.4 R;
- (4) (a) *shares* held; or
 (b) *shares* underlying financial instruments within ■ DTR 5.3.1R(1) to the extent that such financial instruments are held;
 by a *credit institution* or *investment firm* provided that:

- (i) the *shares*, or financial instruments, are held within the *trading book* of the *credit institution* or *investment firm*;
- (ii) the voting rights attached to such *shares* do not exceed 5%;
and
- (iii) the voting rights attached to *shares* in, or related to financial instruments in, the *trading book* are not exercised or otherwise used to intervene in the management of the *issuer*.

(5) *shares* held by a collateral taker under a collateral transaction which involves the outright transfer of *securities* provided the collateral taker does not declare any intention of exercising (and does not exercise) the voting rights attaching to such *shares*.

(6) [deleted]

(7) *shares* acquired for stabilisation purposes in accordance with the *Buy-back and Stabilisation Regulation*, if the voting rights attached to those *shares* are not exercised or otherwise used to intervene in the management of the *issuer*.

[Note: articles 9(4), 9(5), 9(6), 9(6a), 10(c) and 13(4) of the *TD*]

5.1.4

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(1) References to a *market maker* are to a *market maker* which:

- (a) (subject to (3) below) is authorised by the *FCA* or the *PRA* under the *United Kingdom* provisions which implemented *MiFID*;
- (b) does not intervene in the management of the *issuer* concerned;
and
- (c) does not exert any influence on the *issuer* to buy such *shares* or back the *share* price.

[Note: articles 9(5) and 9(6) of the *TD*]

(2) A *market maker* relying upon the exemption for *shares* or financial instruments within ■ DTR 5.3.1R(1) held by it in that capacity must notify the *FCA*, at the latest within the time limit provided for by ■ DTR 5.8.3 R, that it conducts or intends to conduct market making activities on a particular *issuer* (and shall equally make such a notification if it ceases such activity).

[Note: article 6(1) of the *TD implementing Directive*]

(3) References to a *market maker* also include a *third country investment firm* and a *credit institution* when acting as a *market maker* and which, in relation to that activity, is subject to regulatory supervision under the laws of the *United Kingdom*.

Aggregation of holdings

5.1.4A

UK

The *TD Major Holdings Regulation* provides that:

Recital 2

The thresholds for the market making and trading book exemptions should be calculated by aggregating voting rights relating to shares with voting rights related to financial instruments (that is entitlements to acquire shares and financial instruments considered to be economically equivalent to

shares) in order to ensure consistent application of the principle of aggregation of all holdings of financial instruments subject to notification requirements and to prevent a misleading representation of how many financial instruments related to an issuer are held by an entity benefiting from those exemptions.

Article 2

Aggregation of holdings

For the purpose of calculation of the thresholds referred to in [■ DTR 5.1.3R(3) and (4)], holdings under United Kingdom law corresponding to Articles 9, 10 and 13 of Directive 2004/109/EC shall be aggregated.

Aggregation of holdings in the case of a group

5.1.4B

UK

The *TD Major Holdings Regulation* provides that:

Recital 3

In order to provide an adequate level of transparency in the case of a group of companies, and to take into account the fact that, where a parent undertaking has control over its subsidiaries, it may influence their management, the thresholds should be calculated at group level. Therefore all holdings owned by a parent undertaking of a credit institution or investment firm and subsidiary companies should be disclosed when the total sum of the holdings reaches the notification threshold.

Article 3

Aggregation of holdings in the case of a group

For the purpose of calculation of the thresholds referred to in [■ DTR 5.1.3R(3) and (4)]in the case of a group of companies, holdings shall be aggregated at group level according to the principle laid down in [■ DTR 5.2.1R(e)].

Certain voting rights to be disregarded (except at 5% 10% and higher thresholds)

5.1.5

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(1) The following are to be disregarded for the purposes of determining whether a *person* has a notification obligation in accordance with the thresholds in ■ DTR 5.1.2 R except at the thresholds of 5% and 10% and above:

- (a) voting rights attaching to *shares* forming part of property belonging to another which that *person* lawfully manages under an agreement in, or evidenced in, writing;
- (b) voting rights attaching to *shares* which may be exercisable by a *person* in his capacity as the operator of:
 - (i) an *authorised unit trust scheme*;
 - (ia) an *authorised contractual scheme*;
 - (ii) a *recognised scheme*; or
 - (iii) a *UCITS scheme*;
- (c) voting rights attaching to *shares* which may be exercisable by an *ICVC*.
- (d) [deleted]

- (2) For the purposes of ■ DTR 5.1.5 R (1)(a), a *person* ("A") may lawfully manage *investments* belonging to another if:
- (a) A can manage those *investments* in accordance with a *Part 4A permission*;
 - (b) [deleted]
 - (c) A can, in accordance with section 327 of the *Act*, manage those *investments* without contravening the prohibition contained in section 19 of the *Act*;
 - (d) [deleted]
 - (e) A can lawfully manage those *investments* in a *third country* and would, if he were to manage those *investments* in the *UK*, require a *Part 4A permission*.