

Chapter 3

Approval and publication of prospectus

3.4 Supplementary prospectus

Supplementary prospectus

3.4.1

UK

Article 23(1) to (6) of the *Prospectus Regulation* provides for requirements applicable to *supplementary prospectuses*:

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.

3.4.2

UK

Chapter V of the *Prospectus RTS Regulation* provides for further requirements applicable to *supplementary prospectuses*:

Article 18

Publication of a supplement to the prospectus

1.A supplement to the prospectus shall be published where:

(a)new annual audited financial statements are published by any of the following:

- (i)an issuer where a prospectus relates to shares or other transferable securities equivalent to shares;
 - (ii)an issuer of the underlying shares or other transferable securities equivalent to shares in case of securities referred to in Articles 19(2) or 20(2) of [the *PR Regulation*];
 - (iii)an issuer of the underlying shares of depository receipts referred to in Articles 6 and 14 of [the *PR Regulation*];
- (b)an issuer has published a profit forecast or estimate following the approval of the prospectus, where a profit forecast or estimate is required to be included in the prospectus pursuant to [the *PR Regulation*];
- (c)an amendment to, or a withdrawal of, a profit forecast or a profit estimate is included in the prospectus;
- (d)a change in control occurs in respect of any of the following:
- (i)an issuer where a prospectus relates to shares or other transferable securities equivalent to shares;
 - (ii)an issuer of the underlying shares or other transferable securities equivalent to shares where a prospectus relates to securities referred to in Articles 19(2) or 20(2) of [the *PR Regulation*];
 - (iii)an issuer of the underlying shares of depository receipts referred to in Articles 6 and 14 of [the *PR Regulation*];
- (e)third parties make a new takeover bid as defined in paragraph 20(1) of Schedule 1C of the Companies Act 2006 or the result of any takeover bid becomes available in respect of any of the following:
- (i)the equity of the issuer where a prospectus relates to shares or other transferable securities equivalent to shares;
 - (ii)the equity of the issuer of the underlying shares or other transferable securities equivalent to shares where a prospectus relates to securities referred to in Articles 19(2) or 20(2) of [the *PR Regulation*];
 - (iii)the equity of the issuer of the underlying shares of depository receipts where a prospectus is drawn up in accordance with Articles 6 and 14 of [the *PR Regulation*];
- (f)the working capital statement included in a prospectus becomes sufficient or insufficient for the issuer's present requirements, in relation to:
- (i)shares or other transferable securities equivalent to shares;
 - (ii)securities as referred to in Articles 19(2) of [the *PR Regulation*];
 - (iii)depository receipts issued over shares as referred to in Articles 6 and 14 of [the *PR Regulation*].
- (h)in the case of a prospectus relating to shares or other transferable securities equivalent to shares or to the securities referred to in Articles 19(2) or 20(2) of [the *PR Regulation*], a new significant financial commitment is likely to give rise to a

significant gross change as defined in Article 1(e) of that Delegated Regulation;

(i) the aggregate nominal amount of the offering programme is increased.