

Chapter 13

Contents of circulars:
Premium listing

13.1 Preliminary

Application

13.1.1 **R** This chapter applies to a *company* that has a *premium listing*.

Listed company to ensure circulars comply with chapter

13.1.2 **R** A *listed company* must ensure that *circulars* it issues to holders of its *listed equity shares* comply with the requirements of this chapter.

Incorporation by reference

13.1.3 **R** Information may be incorporated in a *circular* issued by a *listed company* by reference to relevant information contained in:

- (1) an approved *prospectus* or listing particulars of that *listed company*;
or
- (2) any other published *document* of that *listed company* that has been filed with the *FCA*.

13.1.4 **R** Information incorporated by reference must be the latest available to the *listed company*.

13.1.5 **R** Information required by **LR 13.3.1R (1)** **(2)** must not be incorporated in the *circular* by reference to information contained in another document.

13.1.6 **R** When information is incorporated by reference, a cross reference list must be provided in the *circular* to enable *security* holders to identify easily specific items of information. The cross reference list must specify where the information can be accessed by *security* holders.

Omission of information

13.1.7 **G** The *FCA* may authorise the omission of information required by **LR 13.3** to **LR 13.6**, **LR 13.8** and **LR 13 Annex 1**, if it considers that disclosure of that information would be contrary to the public interest or seriously detrimental to the *listed company*, provided that that omission would not be likely to mislead the public with regard to facts and circumstances, knowledge of which is essential for the assessment of the matter covered by the *circular*.

13.1.8 **R** A request to the *FCA* to authorise the omission of specific information in a particular case must:

- (1) be made in writing by the *listed company*;
- (2) identify the specific information concerned and the specific reasons for the omission; and
- (3) state why in the *listed company's* opinion one or more grounds in ■ LR 13.1.7 G apply.

Sending information to holders of listed equity shares.....

13.1.9 **R** A supplementary *circular* must be sent to holders of *listed equity shares* no later than 7 days prior to the date of a meeting at which a vote which is expressly required under the *listing rules* will be taken.

13.1.10 **G** It may be necessary for a convened shareholder meeting to be adjourned to comply with ■ LR 13.1.9 R.

13.2 Approval of circulars

Circulars to be approved

- 13.2.1** **R** A *listed company* must not circulate or publish any of the following types of *circular* unless it has been approved by the FCA:
- (1) a *class 1 circular*; or
 - (2) a *related party circular*; or
 - (3) a *circular* that proposes the purchase by a *listed company* of its own *shares* which is required by **LR 13.7.1R (2)** to include a working capital statement; or
- [Note: **LR 12.4.10 G**]
- (4) a *circular* that proposes a reconstruction or a refinancing of a *listed company* which is required by **LR 9.5.12 R** to include a working capital statement; or
 - (5) a *circular* that proposes a cancellation of *listing* which is required to be sent to shareholders under **LR 5.2.5 R (1)**; or
 - (6) a *circular* that proposes a transfer of listing which is required to be sent to shareholders under **LR 5.4A.4 R (2)**.

Circulars not requiring approval

- 13.2.2** **R** [deleted]
- 13.2.2A** **G** [deleted]
- 13.2.3** **R** [deleted]

Approval procedures

- 13.2.4** **R** The following documents (to the extent applicable) must be lodged with the FCA in final form before it will approve a *circular*:
- (1) a Sponsors Declaration for the Production of a Circular completed by the *sponsor*;

- (2) for a *class 1 circular* or *related party circular*, a letter setting out any items of information required by this chapter that are not applicable in that particular case; and
- (3) [deleted]
- (4) any other document that the *FCA* has sought in advance from the *listed company* or its *sponsor*.

13.2.5 **R** Two copies of the following documents in draft form must be submitted at least 10 clear *business days* before the date on which it is intended to publish the *circular*:

- (1) the *circular*; and
- (2) the letters and documents referred to in ■ LR 13.2.4R (1) and ■ (2).

13.2.6 **R** [deleted]

13.2.7 **R** If a *circular* submitted for approval is amended, two copies of amended drafts must be resubmitted, marked to show changes made to conform with *FCA* comments and to indicate other changes.

Approval of circulars.....

13.2.8 **G** The *FCA* will approve a *circular* if it is satisfied that the requirements of this chapter are satisfied.

13.2.9 **G** The *FCA* will only approve a *circular* between 9a.m. and 5.30p.m. on a *business day* (unless alternative arrangements are made in advance).

Note: LR 9.6.1 R requires a *company* to forward to the *FCA* two copies of all *circulars* issued (whether or not they require approval) for publication on the *document viewing facility*.

Sending approved circulars.....

13.2.10 **R** A *listed company* must send a *circular* to holders of its *listed equity shares* as soon as practicable after it has been approved.

13.3 Contents of all circulars

Contents of all circulars

13.3.1

R

Every *circular* sent by a *listed company* to holders of its *listed securities* must:

- (1) provide a clear and adequate explanation of its subject matter giving due prominence to its essential characteristics, benefits and risks;
- (2) state why the *security* holder is being asked to vote or, if no vote is required, why the *circular* is being sent;
- (3) if voting or other action is required, contain all information necessary to allow the *security* holders to make a properly informed decision;
- (4) if voting or other action is required, contain a heading drawing attention to the document's importance and advising *security* holders who are in any doubt as to what action to take to consult appropriate independent advisers;
- (5) if voting is required, contain a recommendation from the Board as to the voting action *security* holders should take for all resolutions proposed, indicating whether or not the proposal described in the *circular* is, in the Board's opinion, in the best interests of *security* holders as a whole;
- (6) state that if all the *securities* have been sold or transferred by the addressee the *circular* and any other relevant documents should be passed to the *person* through whom the sale or transfer was effected for transmission to the purchaser or transferee;
- (7) if new *securities* are being issued in substitution for existing *securities*, explain what will happen to existing documents of title;
- (8) not include any reference to a specific date on which listed *securities* will be marked "ex" any benefit or entitlement which has not been agreed in advance with the *RIE* on which the *company's securities* are or are to be traded;
- (9) if it relates to a transaction in connection with which *securities* are proposed to be *listed*, include a statement that application has been or will be made for the *securities* to be *admitted* and, if known, a statement of the following matters:
 - (a) the dates on which the *securities* are expected to be *admitted* and on which dealings are expected to commence;
 - (b) how the new *securities* rank for dividend or interest;

- (c) whether the new *securities* rank equally with any existing *listed securities*;
 - (d) the nature of the document of title;
 - (e) the proposed date of issue;
 - (f) the treatment of any fractions;
 - (g) whether or not the *security* may be held in uncertificated form; and
 - (h) the names of the *RIEs* on which *securities* are to be traded;
- (10) if a *person* is named in the *circular* as having advised the *listed company* or its *directors*, a statement that the adviser has given and has not withdrawn its written consent to the inclusion of the reference to the adviser's name in the form and context in which it is included; and
- (11) if the *circular* relates to cancelling *listing*, state whether it is the *company's* intention to apply to cancel the *securities' listing*.

13.3.2 **R** If another *rule* provides that a *circular* of a particular type must include specified information, then that information is (unless the contrary intention appears) in addition to the information required under this section.

Pro forma financial information in certain circulars.....

13.3.3 **R** If a *listed company* includes pro forma financial information in a *class 1 circular*, a *related party circular* or a *circular* relating to the purchase by the *company* of 25% or more its issued *equity shares* (excluding *treasury shares*), it must comply with the requirements for pro forma financial information set out in the *PD Regulation*.

13.4 Class 1 circulars

Class 1 circulars

- 13.4.1** **R** A *class 1 circular* must also include the following information:
- (1) the information given in the notification (see **LR 10.4.1R**);
 - (2) the information required by **LR 13 Annex 1**;
 - (3) the information required by **LR 13.5** (if applicable); and
 - (4) a declaration by the *issuer* and its *directors* in the following form (with appropriate modifications):

"The [issuer] and the directors of [the issuer], whose names appear on page [], accept responsibility for the information contained in this document. To the best of the knowledge and belief of the [issuer] and the directors (who have taken all reasonable care to ensure that such is the case) the information contained in this document is in accordance with the facts and does not omit anything likely to affect the import of such information.";
 - (5) a statement of the effect of the acquisition or disposal on the *group's* earnings and assets and liabilities; and
 - (6) if a statement or report attributed to a *person* as an expert is included in a *circular* (other than a statement or report incorporated by reference from a *prospectus* or *listing particulars*), a statement to the effect that the statement or report is included, in the form and context in which it is included, with the *person's* consent.
- 13.4.1A** **G** The information necessary under **LR 13.3.1R (3)** includes all the material terms of the *class 1 transaction* including the consideration.
- 13.4.2** **R** If a *class 1 circular* contains a *modified report*, as described in **LR 13.5.25 R**, the *class 1 circular* must set out:
- (1) whether the modification or emphasis-of-matter paragraph is significant to shareholders;
 - (2) if the modification or emphasis-of-matter paragraph is significant to shareholders, the reason for its significance; and

- (3) a statement from the *directors* explaining why they are able to recommend the proposal set out in the *class 1 circular* notwithstanding the *modified report*

Takeover offers

13.4.3

R

- (1) If a *class 1 circular* relates to a takeover offer which is recommended by the offeree's board and the *listed company* has had access to due diligence information on the offeree at the time the *class 1 circular* is published, the *listed company* must prepare and publish the working capital statement on the basis that the acquisition has taken place.
- (2) If a *class 1 circular* relates to a takeover offer which has not been recommended by the offeree's board or the *listed company* has not had access to due diligence information on the offeree at the time the *class 1 circular* is published, then the *listed company* must comply with paragraphs (3) to (6).
- (3) The *listed company* must prepare and publish the working capital statement on the *listed company* on the basis that the acquisition has not taken place.
- (4) Other information on the offeree required by ■ LR 13 Annex 1 should be disclosed in the *class 1 circular* on the basis of information published or made available by the offeree and of which the *listed company* is aware and is free to disclose.
- (5) [deleted]
- (6) If the takeover offer has been recommended but the *listed company* does not have access to due diligence information on the offeree, the *listed company* must disclose in the *class 1 circular* why access has not been given to that information.

Acquisition or disposal of property

13.4.4

R

If a *class 1 transaction* relates to:

- (1) the acquisition or disposal of *property*; or
- (2) the acquisition of a *property company* that is not *listed*;

the *class 1 circular* must include a *property valuation report*.

13.4.5

R

If a *listed company* makes significant reference to the value of a *property* in a *class 1 circular*, the *class 1 circular* must include a *property valuation report*.

Acquisition or disposal of mineral resources

13.4.6

R

If a *class 1 transaction* relates to an acquisition or disposal of *mineral resources* or rights to *mineral resources* the *class 1 circular* must include:

- (1) a *mineral expert's report*; and
- (2) a glossary of the technical terms used in the *mineral expert's report*.

13.4.7

G

The *FCA* may modify the information requirements in ■ LR 13.4.6 R if it considers that the information set out would not provide significant additional information. In those circumstances the *FCA* would generally require only the following information, provided it is presented in accordance with reporting standards acceptable to the *FCA*:

- (1) details of *mineral resources*, and where applicable reserves (presented separately) and exploration results or prospects;
- (2) anticipated mine life and exploration potential or similar duration of commercial activity in extracting reserves;
- (3) an indication of the duration and main terms of any licences or concessions and the legal, economic and environmental conditions for exploring and developing those licences or concessions;
- (4) indications of the current and anticipated progress of mineral exploration and/or extraction and processing including a discussion of the accessibility of the deposit; and
- (5) an explanation of any exceptional factors that have influenced the matters in (1) to (4).

Acquisition of a scientific research based company or related assets
.....

13.4.8

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



13.5 Financial information in Class 1 Circulars

When financial information must be included in a class 1 circular

- 13.5.-1 **G** For the purposes of ■ LR 13.5, references to consolidation include both consolidation and proportionate consolidation.
- 13.5.1 **R** Financial information, as set out in this section, must be included by a *listed company* in a *class 1 circular* if:
- (1) the *listed company* is seeking to acquire an interest in a *target* which will result in a consolidation of the *target's* assets and liabilities with those of the *listed company*; or
 - (2) the *listed company* is seeking to dispose of an interest in a *target* which will result in the assets and liabilities which are the subject of the disposal no longer being consolidated; or
 - (3) the *target* ("A") has itself acquired a *target* ("B") and:
 - (a) A acquired B within the three year reporting period set out in ■ LR 13.5.13R (1) or after the date of the last published accounts; and
 - (b) the acquisition of B, at the date of its acquisition by A, would have been classified as a *class 1 acquisition* in relation to the *listed company* at the date of acquisition of A by the *listed company*.
- 13.5.2 **G** [deleted]
- 13.5.3 **G** [deleted]
- 13.5.3A **R** When a *listed company* is acquiring an interest in a *target* that will be accounted for as an investment, or disposing of an interest in a *target* that has been accounted for as an investment, and the *target's securities* that are the subject of the transaction are admitted to an investment exchange that enables intra-day price formation, the *class 1 circular* should include:
- (1) the amounts of the dividends or other distributions paid in the last three years; and

- (2) the price per *security* and the imputed value of the entire holding being acquired or disposed of at the close of business at the following times:
 - (a) on the last *business day* of each of the six months prior to the issue of the *class 1 circular*;
 - (b) on the day prior to the announcement of the transaction; and
 - (c) at the latest practicable date prior to the submission for approval of the *class 1 circular*.

13.5.3B

R

When a *listed company* is acquiring or disposing of an interest in a *target* that was or will be accounted for using the equity method in the *listed company's* annual consolidated accounts, the *class 1 circular* should include:

- (1) for an acquisition,
 - (a) a narrative explanation of the proposed accounting treatment of the *target* in the *issuer's* next audited consolidated accounts;
 - (b) a *financial information table* for the *target*;
 - (c) a statement that the *target* financial information has been audited and reported on without modification or a statement addressing ■ LR 13.4.2 R and ■ LR 13.5.25 R with regard to any modifications; and
 - (d) a reconciliation of the financial information and opinion thereon in accordance with ■ LR 13.5.27R (2)(a) or, where applicable, a statement from the *directors* in accordance with ■ LR 13.5.27R (2)(b);
- (2) for a disposal, the line entries relating to the *target* from its last audited consolidated balance sheet and those from its audited consolidated income statement for the last three years together with the equivalent line entries from its interim consolidated balance sheet and interim consolidated income statement, where the *issuer* has published subsequent interim financial information.

13.5.3C

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A *listed company* that is entering into a *class 1 transaction* which falls within ■ LR 13.5.1 R, ■ LR 13.5.3A R or ■ LR 13.5.3B R but cannot comply with ■ LR 13.5.12 R (inclusion of financial information table) or, for an investment, ■ LR 13.5.3AR (2) (inclusion of price per *security* and the imputed value of the entire holding), must include an appropriate independent valuation of the *target* in the *class 1 circular*.

13.5.3D

G

The *FCA* may dispense with the requirement for an independent valuation under ■ LR 13.5.3C R if it considers that this would not provide useful information for shareholders, in which case the *class 1 circular* must include such information as the *FCA* specifies.

Accounting policies

13.5.4

R

- (1) A *listed company* must present all financial information that is disclosed in a *class 1 circular* in a form that is consistent with the accounting policies adopted in its own latest annual consolidated accounts.

- (2) The requirement set out in (1) does not apply when financial information is presented in accordance with:
- (a) ■ DTR 4.2.6 R, in relation only to financial information for the *listed company* presented for periods after the end of its last published annual accounts; or
 - (b) ■ LR 13.3.3 R (in relation to pro forma financial information); or
 - (c) ■ LR 13.5.27 R or ■ LR 13.5.30 R (in relation to financial information presented for entities that are *admitted to trading* on a regulated market or admitted to an appropriate *multilateral trading facility* or overseas investment exchange); or
 - (d) ■ LR 13.5.30B R (in relation to financial information on disposal entities extracted from financial records from previous years); or
 - (e) ■ LR 13.5.3A R or ■ LR 13.5.3B R (in relation to *targets* that are or will be treated as investments or accounted for using the equity method in the *listed company's* consolidated accounts); or
 - (f) the accounting policies to be used in the *issuer's* next financial statements, provided the *issuer's* last published annual consolidated accounts have been presented on a restated basis consistent with those to be used in its next accounts on or before the date of the *class 1 circular*; or
 - (g) ■ LR 13.5.32 R (in relation to a *profit forecast* or a *profit estimate*).

13.5.5 **G** Accounting policies include accounting standards and accounting disclosures.

Source of information

13.5.6 **R** A *listed company* must cite the source of all financial information that it discloses in a *class 1 circular*.

13.5.7 **G** In complying with ■ LR 13.5.6 R a *listed company* should:

- (1) state whether the financial information was extracted from accounts, internal financial accounting records, internal management accounting records, an external or other source;
- (2) state whether financial information that was extracted from audited accounts was extracted without material adjustment; and
- (3) indicate which aspects of the financial information relate to:
 - (a) historical financial information;
 - (b) forecast or estimated financial information; or
 - (c) pro forma financial information prepared in accordance with Annex 1 and Annex 2 of the *PD Regulation*;
 with reference made to where the basis of presentation can be found.

13.5.8 **R** If financial information has not been extracted directly from audited accounts, the *class 1 circular* must:

- (1) set out the basis and assumptions on which the financial information has been prepared; and
- (2) include a statement that the financial information is unaudited or not reported on by an accountant.

13.5.9 **R** A *listed company* must provide investors with all necessary information to understand the context and relevance of non-statutory figures, including a reconciliation to statutory equivalents.

Synergy benefits

13.5.9A **R** Where a *listed company* includes details of estimated synergies or other quantified estimated financial benefits expected to arise from a transaction in a *class 1 circular*, it must also include in the *class 1 circular*:

- (1) the basis for the belief that those synergies or other quantified estimated financial benefits will arise;
- (2) an analysis and explanation of the constituent elements of the synergies or other quantified estimated financial benefits (including any costs) sufficient to enable the relative importance of those elements to be understood, including an indication of when they will be realised and whether they are expected to be recurring;
- (3) a base figure for any comparison drawn;
- (4) a statement that the synergies or other quantified estimated financial benefits are contingent on the *class 1 transaction* and could not be achieved independently; and
- (5) a statement that the estimated synergies or other quantified estimated financial benefits reflect both the beneficial elements and relevant costs.

Prominence of information

13.5.10 **R** A *listed company* must give audited historical financial information greater prominence in a *class 1 circular* than any forecast, estimated, pro forma or non-statutory financial information.

Summary of financial information

13.5.11 **R** A *listed company* that provides a summary of financial information in a *class 1 circular* must include in the *circular* a statement that investors should read the whole document and not rely solely on the summarised financial information.

Financial information table

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

Class 1 acquisitions

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

Financial information table: reporting period

13.5.13 **R** A *financial information table* for a *class 1 acquisition* must cover one of the following reporting periods:

- (1) a period of three years up to the end of the latest financial period for which the *target* or its parent has prepared audited accounts; or
- (2) a lesser period than the period set out in (1) if the *target's* business has been in existence for less than three years.

Financial information table: class 1 acquisitions

13.5.14 **R** A *listed company* must include, in a *financial information table*, financial information that covers:

- (1) the *target*; and
- (2) the *target's subsidiary undertakings*, if any.

13.5.15 **R** [deleted]

13.5.16 **R** [deleted]

13.5.17 **G** [deleted]

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

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

13.5.18 **R** A *listed company* must ensure that a *financial information table* includes, for each of the periods covered by the table:

- (1) a balance sheet and its explanatory notes;
- (2) an income statement and its explanatory notes;

- (3) a cash flow statement and its explanatory notes;
- (4) a statement showing either all changes in equity or changes in equity other than those arising from capital transactions with owners and distributions to owners;
- (5) the accounting policies; and
- (6) any additional explanatory notes.

13.5.19 **R** [deleted]

13.5.20 **G** [deleted]

Financial information table: accountant's opinion.....

13.5.21 **R** Unless **LR 13.5.3A R**, **LR 13.5.3B R** or **LR 13.5.27 R** applies, a *financial information table* must disclose how the accounting policies used conform with **LR 13.5.4 R** and be accompanied by an accountant's opinion as set out in **LR 13.5.22 R**.

13.5.22 **R** An accountant's opinion must set out whether, for the purposes of the *class 1 circular*, the *financial information table* gives a true and fair view of the financial matters set out in it.

13.5.23 **R** An accountant's opinion must be given by an independent accountant who is qualified to act as an auditor.

13.5.24 **G** An accountant will be independent if he or she complies with the standards and guidelines on independence issued by its national accountancy and auditing bodies.

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

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

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

Acquisitions of publicly traded companies

13.5.27 **R**

- (1) ■ LR 13.5.27R (2) applies where the *target* is:
- (a) *admitted to trading on a regulated market*; or
 - (b) a *company* whose *securities* are either listed on an investment exchange that is not a *regulated market* or admitted to a *multilateral trading facility*, where appropriate standards as regards the production, publication and auditing of financial information are in place;
- and none of the financial information included in the *target's financial information table* is subject to a *modified report*, except where a dispensation has been granted under ■ LR 13.5.27C R.
- (2) Where ■ LR 13.5.27R (1) or ■ LR 13.5.3BR (1) applies the *listed company* must include in the *class 1 circular* either:
- (a) a reconciliation of financial information on the *target* for all periods covered by the *financial information table* on the basis of the *listed company's* accounting policies, accompanied by an accountant's opinion that sets out:
 - (i) whether the reconciliation of financial information in the *financial information table* has been properly compiled on the basis stated; and
 - (ii) whether the adjustments are appropriate for the purpose of presenting the financial information (as adjusted) on a basis consistent in all material respects with the *listed company's* accounting policies; or
 - (b) a statement by the *directors* that no material adjustment needs to be made to the *target's* financial information to achieve consistency with the *listed company's* accounting policies.

13.5.27A **G**

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

- (1) the quality of auditing standards compared with International Standards on Auditing;
- (2) requirements for independence of auditors;
- (3) the nature and extent of regulation of audit firms;
- (4) the quality of accounting standards compared with International Financial Reporting Standards;
- (5) the requirements for the timeliness of publication of financial information;
- (6) the presence and effectiveness of monitoring of the timely production and publication of the accounts; and

(7) the existence and level of external independent scrutiny of the quality of accounts and the disclosures therein.

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

13.5.27C **R** The *FCA* may grant a dispensation from ■ LR 13.5.27R (1) to allow the application of ■ LR 13.5.27R (2) where a *modified report* on the *target's* financial information has been produced. In such circumstances the *FCA* will have regard to the factors set out in ■ LR 6.2.5G.

13.5.28 **R** [deleted]

13.5.29 **G** [deleted]

Half-yearly and quarterly financial information

13.5.30 **R** If a *class 1 circular* includes half-yearly or quarterly or other interim financial information for the *target*, the financial information should be presented in accordance with ■ LR 13.5.4R (1) and be accompanied by a confirmation from the *directors* of the consistency of the accounting policies with those of the *issuer*, except:

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

Class 1 disposals

13.5.30A **R** ■ LR 13.5.30B R to ■ LR 13.5.30D G apply only in relation to a *class 1 disposal*.

13.5.30B **R**

- (1) In the case of a *class 1 disposal*, a *financial information table* must include for the *target*:
 - (a) the last annual consolidated balance sheet;
 - (b) the consolidated income statements for the last three years drawn up to at least the level of profit or loss for the period; and
 - (c) the consolidated balance sheet and consolidated income statement (drawn up to at least the level of profit or loss for the period) at the *issuer's* interim balance sheet date if the *issuer* has published interim financial statements since the publication of its last annual audited consolidated financial statements.

- (2) The information in (1) must be extracted without material adjustment from the consolidation schedules that underlie the *listed company's* audited consolidated accounts or, in the case of (c), the interim financial information, and must be accompanied by a statement to this effect.
- (3) If the information in (1) is not extracted from the consolidation schedules it must be extracted from the *issuer's* accounting records and where an allocation is made, the information must be accompanied by:
 - (a) an explanation of the basis for any financial information presented; and
 - (b) a statement by the *directors* of the *listed company* that such allocations provide a reasonable basis for the presentation of the financial information for the *target* to enable shareholders to make a fully informed voting decision.
- (4) If the *target* has not been owned by the *listed company* for the entire reporting period set out in (1)(b), the information required by (1) or (3) may be extracted from the *target's* accounting records.

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

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

Pro forma financial information

13.5.31 **G** **LR 13.3.3 R** sets out requirements for pro forma information in a *class 1 circular*.

Profit forecasts and profit estimates

13.5.32 **R** If a *listed company* includes a *profit forecast* or a *profit estimate* in a *class 1 circular* it must:

- (1) comply with the requirements for a *profit forecast* or *profit estimate* set out in Annex 1 of the *PD Regulation* except that a *listed company* does not need to include a report on the forecast or estimate from an accountant in the *class 1 circular*; and
- (2) include a statement confirming that the *profit forecast* or *profit estimate* has been properly compiled on the basis of assumptions

stated and that the basis of accounting is consistent with the accounting policies of the *listed company*.

- 13.5.33** **R** If, prior to the *class 1 transaction*, a *profit forecast* or *profit estimate* was published that:
- (1) relates to any of the *listed company*, a significant part of the *listed company group*, the *target* or a significant part of the *target*; and
 - (2) relates to financial information including the period of the forecast which has yet to be published at the date of the *class 1 circular*;
- the *listed company* must either:
- (3) include that *profit forecast* or *profit estimate* in the *class 1 circular* and comply with **LR 13.5.32 R**; or
 - (4) include the *profit forecast* or *profit estimate* in the *class 1 circular* together with an explanation of why the *profit forecast* or *profit estimate* is no longer valid and why reassessment of the *profit forecast* or *profit estimate* in the *class 1 circular* is not necessary for the *listed company* to comply fully with **LR 13.3.1R (3)**.
- 13.5.33A** **G** For the purposes of **LR 13.5.33 R**, the fact that the *profit forecast* or *profit estimate* was prepared for a reason other than the *class 1 circular* does not itself indicate invalidity.
- 13.5.33B** **G** For the purposes of **LR 13.5.33R (1)** a significant part of the *listed company* or *target* is any part that represents over 75% of the *listed company's group* or the *target* respectively. For these purposes the *FCA* will take into account factors such as the assets, profitability and market capitalisation of the business.
- 13.5.34** **G** A *listed company* should consider **LR 9.2.18 R** regarding information that must be published after a *class 1 transaction*.
- 13.5.35** **G** [deleted]
- 13.5.36** **R** [deleted]

13.6 Related party circulars

Related party circulars

13.6.1

R

A *related party circular* must also include:

- (1) in all cases the following information referred to in the *PD Regulation* relating to the *company*:
Paragraph of Annex 1 of the *PD Regulation*;
 - (a) Annex 1 item 5.1.1 – Issuer name;
 - (b) Annex 1 item 5.1.4 – Issuer address;
 - (c) Annex 1 item 18.1 – Major shareholders;
 - (d) Annex 1 item 20.9 – Significant changes;
 - (e) Annex 1 item 22 – Material contracts (if it is information which shareholders of the *company* would reasonably require to make a properly informed assessment of how to vote);
 - (f) Annex 1 item 24 – Documents on display;
- (2) for a transaction or arrangement where the *related party* is (or was within the 12 months before the transaction or arrangement), a *director or shadow director, or an associate of a director or shadow director, of the company* (or of any other *company* which is its *subsidiary undertaking or parent undertaking or a fellow subsidiary undertaking*) the following information referred to in the *PD Regulation* relating to that *director*:
Paragraph of Annex 1 of the *PD Regulation*:
 - (a) Annex 1 item 16.2 – Service contracts;
 - (b) Annex 1 item 17.2 – Directors' interests in shares;
 - (c) Annex 1 item 19 – Related party transactions;
- (3) full particulars of the transaction or arrangement, including the name of the *related party* concerned and of the nature and extent of the interest of the party in the transaction or arrangement and also a statement that the reason the *security holder* is being asked to vote on the transaction or arrangement is because it is with a *related party*;
- (4) for an acquisition or disposal of an asset where any *percentage ratio* is 25% or more and for which appropriate financial information is not available, an independent valuation;

- (5) a statement by the board that the transaction or arrangement is fair and reasonable as far as the *security* holders of the *company* are concerned and that the *directors* have been so advised by a *sponsor*;
- (6) if applicable, a statement that the *related party* will not vote on the relevant resolution, and that the *related party* has undertaken to take all reasonable steps to ensure that its *associates* will not vote on the relevant resolution, at the meeting;
- (7) [deleted]
- (8) if ■ LR 11.1.11 R (Aggregation of transactions) applies, details of each of the transactions or arrangements being aggregated; and
- (9) if a statement or report attributed to a *person* as an expert is included in a *circular* (other than a statement or report incorporated by reference from a *prospectus* or *listing particulars*), a statement that it is included, in the form and context in which it is included, with the consent of that *person*.

13.6.2 **R** For the purposes of the statement by the board referred to in ■ LR 13.6.1R (5):

- (1) any *director* who is, or an *associate* of whom is, the *related party*, or who is a *director* of the *related party* should not have taken part in the board's consideration of the matter; and
- (2) the statement should specify that such persons have not taken part in the board's consideration of the matter.

13.6.3 **G** For the purpose of advising the *directors* under ■ LR 13.6.1R (5), a *sponsor* may take into account but not rely on commercial assessments of the *directors*.

Pro forma financial information

13.6.4 **G** ■ LR 13.3.3 R sets out requirements for pro forma information in *related party circulars*.

13.7 Circulars about purchase of own equity shares

Purchase of own equity shares

13.7.1

R

- (1) A *circular* relating to a resolution proposing to give the *company* authority to purchase its own *equity securities* must also include:
 - (a) if the authority sought is a general one, a statement of the *directors'* intentions about using the authority;
 - (b) if known, the method by which the *company* intends to acquire its *equity shares* and the number to be acquired in that way;
 - (c) a statement of whether the *company* intends to cancel the *equity shares* or hold them in treasury;
 - (d) if the authority sought related to a proposal to purchase from specific parties, a statement of the names of the persons from whom *equity shares* are to be acquired together with all material terms of the proposal;
 - (e) details about the price, or the maximum and minimum price, to be paid;
 - (f) the total number of warrants and options to subscribe for *equity shares* that are outstanding at the latest practicable date before the *circular* is published and both the proportion of issued share capital (excluding *treasury shares*) that they represent at that time and will represent if the full authority to buyback *shares* (existing and being sought) is used; and
 - (g) where **LR 12.4.2A R** applies, an explanation of the potential impact of the proposed *share* buyback, including whether control of the *listed company* may be concentrated following the proposed transaction.
- (2) If the exercise in full of the authority sought would result in the purchase of 25% or more of the *company's* issued *equity shares* (excluding *treasury shares*) the *circular* must also include the following information referred to in the *PD Regulation*:
 - (a) Annex 1 item 4 – Risk factors;
 - (b) Annex 1 item 12 – Trend information;
 - (c) Annex 1 item 17.2 – Director's interests in shares;
 - (d) Annex 1 item 18.1 – Major interests in shares;
 - (e) Annex 1 item 20.9 – Significant changes;
 - (f) Annex 3 item 3.1 – Working capital (this must be based on the assumption that the authority sought will be used in full at the

maximum price allowed and this assumption must be stated). This information is not required to be included in a *circular* issued by a *closed-ended investment fund*.

- 13.7.1A **G** In considering whether an explanation given in a *circular* satisfies the requirement in ■ LR 13.7.1R (1)(g), the *FCA* would expect the following information to be included in the explanation:
- (1) the shareholdings of *substantial shareholders* in the *listed company* before and after the proposed transaction; and
 - (2) the shareholdings of a holder of *equity shares* who may become a *substantial shareholder* in the *listed company* as a result of the proposed transaction.

Pro forma financial information
.....

- 13.7.2 **G** ■ LR 13.3.3 R sets out requirements for pro forma information in a *circular* relating to the purchase by the *company* of 25% or more of the *company's* issued *equity shares* (excluding *treasury shares*).

13.8 Other circulars

Authority to allot shares

13.8.1 **R** A *circular* relating to a resolution proposing to grant the *directors*' authority to allot shares or other securities pursuant to section 551 (Power of directors to allot shares etc: authorisation by company) of the Companies Act 2006 must include:

- (1) a statement of the maximum amount of shares or other securities which the *directors* will have authority to allot and the percentage which that amount represents of the total ordinary share capital in issue (excluding *treasury shares*) as at the latest practicable date before publication of the *circular*;
- (2) a statement of the number of *treasury shares* held by the *company* as at the date of the *circular* and the percentage which that amount represents of the total ordinary share capital in issue (excluding *treasury shares*) as at the latest practicable date before publication of the *circular*;
- (3) a statement by the *directors* as to whether they have any present intention of exercising the authority, and if so for what purpose; and
- (4) a statement as to when the authority will lapse.

Disapplying pre-emption rights

13.8.2 **R** A *circular* relating to a resolution proposing to disapply pre-emption rights provided by **LR 9.3.11 R** must include:

- (1) a statement of the maximum amount of *equity securities* which the disapplication will cover; and
- (2) if there is a general disapplication for *equity securities* for cash made otherwise than to existing shareholders in proportion to their existing holdings, the percentage which the amount generally disappplied represents of the total *equity* share capital in issue as at the latest practicable date before publication of the *circular*.

13.8.3 **R** [deleted]

13.8.4

R

Reduction of capital

A *circular* relating to a resolution proposing to reduce the *company's* capital, other than a reduction of capital pursuant to section 626 of the Companies Act 2006 (Reduction of capital in connection with redenomination), must include a statement of the reasons for, and the effects of, the proposal.

13.8.5

R

Capitalisation or bonus issue

- (1) A *circular* relating to a resolution proposing a capitalisation or bonus issue must include:
 - (a) the reason for the issue;
 - (b) a statement of the last date on which transfers were or will be accepted for registration to participate in the issue;
 - (c) details of the proportional entitlement; and
 - (d) a description of the nature and amount of reserves which are to be capitalised.
- (2) Any timetable set out in the *circular* must have been approved by the *RIE* on which the *company's equity securities* are traded.

13.8.6

R

Scrip dividend alternative

- (1) A *circular* containing an offer to shareholders of the right to elect to receive *shares* instead of all or part of a cash dividend must include:
 - (a) a statement of the total number of *shares* that would be issued if all eligible shareholders were to elect to receive *shares* for their entire shareholdings, and the percentage which that number represents of the *equity shares* (excluding *treasury shares*) in issue at the date of the *circular*;
 - (b) in a prominent position, details of the equivalent cash dividend foregone to obtain each *share* or the basis of the calculation of the number of *shares* to be offered instead of cash;
 - (c) a statement of the total cash dividend payable and applicable tax credit on the basis that no elections for the scrip dividend alternative are received;
 - (d) a statement of the date for ascertaining the *share* price used as a basis for calculating the allocation of *shares*;
 - (e) details of the proportional entitlement;
 - (f) details of what is to happen to fractional entitlements;
 - (g) the record date; and
 - (h) a form of election relating to the scrip dividend alternative which:
 - (i) is worded so as to ensure that shareholders must elect positively in order to receive shares instead of cash; and
 - (ii) includes a statement that the right is non-transferable.
- (2) Any timetable set out in the *circular* must have been approved by the *RIE* on which the *company's equity securities* are traded.

Scrip dividend mandate schemes/dividend reinvestment plans

- 13.8.7 **R** (1) A *circular* relating to any proposal where shareholders are entitled to complete a mandate in order to receive *shares* instead of future cash dividends must include:
- (a) the information in ■ LR 13.8.6R (1)(d) and ■ (f);
 - (b) the basis of the calculation of the number of *shares* to be offered instead of cash;
 - (c) a statement of last date for lodging notice of participation or cancellation in order for that instruction to be valid for the next dividend;
 - (d) details of when adjustment to the number of *shares* subject to the mandate will take place;
 - (e) details of when cancellation of a mandate instruction will take place;
 - (f) a statement of whether or not the mandate instruction must be in respect of a shareholder's entire holding;
 - (g) the procedure for notifying shareholders of the details of each scrip dividend; and
 - (h) a statement of the circumstances, if known, under which the *directors* may decide not to offer a scrip alternative in respect of any dividend.
- (2) The timetable in the *circular* for each scrip alternative covered by a scrip dividend mandate plan must have been approved by the *RIE* on which the *company's equity shares* are traded.

Notices of meetings

- 13.8.8 **R** (1) When holders of *listed equity shares* are sent a notice of meeting which includes any business, other than ordinary business at an annual general meeting, an explanatory *circular* must accompany the notice. If the other business is to be considered at or on the same day as an annual general meeting, the explanation may be incorporated in the *directors'* report.
- (2) [deleted]
- (3) A *circular* or other document convening an annual general meeting where only ordinary business is proposed does not need to comply with ■ LR 13.3.1R (4), ■ (5) and ■ (6).

- 13.8.9 **G** A *circular* or other document convening an annual general meeting where special business is proposed will need to comply with all of ■ LR 13.3.1 R (including paragraphs (4), (5) and (6) in respect of special business).

Amendments to constitution

- 13.8.10 **R** A *circular* to shareholders about proposed amendments to the *constitution* must include:
- (1) an explanation of the effect of the proposed amendments; and

- (2) either the full terms of the proposed amendments, or a statement that the full terms will be available for inspection:
 - (a) from the date of sending the *circular* until the close of the relevant general meeting at a place in or near the City of London or such other place as the *FCA* may determine; and
 - (b) at the place of the general meeting for at least 15 minutes before and during the meeting.

Employees' share scheme etc

13.8.11

R

A *circular* to shareholders about the approval of an *employee's share scheme* or *long-term incentive scheme* must:

- (1) include either the full text of the scheme or a description of its principal terms;
- (2) include, if *directors* of the *listed company* are trustees of the scheme, or have a direct or indirect interest in the trustees, details of the trusteeship or interest;
- (3) state that the provisions (if any) relating to:
 - (a) the persons to whom, or for whom, *securities*, cash or other benefits are provided under the scheme (the "participants");
 - (b) limitations on the number or amount of the *securities*, cash or other benefits subject to the scheme;
 - (c) the maximum entitlement for any one participant; and
 - (d) the basis for determining a participant's entitlement to, and the terms of, *securities*, cash or other benefit to be provided and for the adjustment thereof (if any) if there is a capitalisation issue, *rights issue* or *open offer*, sub-division or consolidation of *shares* or reduction of capital or any other variation of capital;

cannot be altered to the advantage of participants without the prior approval of shareholders in general meeting (except for minor amendments to benefit the administration of the scheme, to take account of a change in legislation or to obtain or maintain favourable tax, exchange control or regulatory treatment for participants in the scheme or for the *company* operating the scheme or for members of its group);
- (4) state whether benefits under the scheme will be pensionable and, if so, the reasons for this; and
- (5) if the scheme is not circulated to shareholders, include a statement that it will be available for inspection:
 - (a) from the date of sending the *circular* until the close of the relevant general meeting at a place in or near the City of London or such other place the *FCA* may determine; and
 - (b) at the place of the general meeting for at least 15 minutes before and during the meeting.

13.8.12

R

The resolution contained in the notice of meeting accompanying the *circular* must refer either to:

- (1) the scheme itself (if circulated to shareholders); or
- (2) the summary of its principal terms included in the *circular*.

13.8.13 **R** The resolution approving the adoption of an *employees' share scheme* or *long-term incentive scheme* may authorise the *directors* to establish further schemes based on any scheme which has previously been approved by shareholders but modified to take account of local tax, exchange control or securities laws in overseas territories, provided that any *shares* made available under such further schemes are treated as counting against any limits on individual or overall participation in the main scheme.

Amendments to employees' share scheme etc

13.8.14 **R** A *circular* to shareholders about proposed amendments to an *employees' share scheme* or a *long-term incentive scheme* must include:

- (1) an explanation of the effect of the proposed amendments; and
- (2) the full terms of the proposed amendments, or a statement that the full text of the scheme as amended will be available for inspection.

Discounted option arrangements

13.8.15 **R** If shareholders' approval is required by **LR 9.4.4 R**, the *circular* to shareholders must include the following information:

- (1) details of the persons to whom the *options, warrants* or rights are to be granted; and
- (2) a summary of the principal terms of the *options, warrants* or rights.

Reminders of conversion rights

13.8.16 **R**

- (1) A *circular* to holders of *listed securities* convertible into *shares* reminding them of the times when conversion rights are exercisable must include:
 - (a) the date of the last day for lodging conversion forms and the date of the expected sending of the certificates;
 - (b) a statement of the market values for the *securities* on the first dealing day in each of the six months before the date of the *circular* and on the latest practicable date before sending the *circular*;
 - (c) the basis of conversion in the form of a table setting out capital and income comparisons;
 - (d) a brief explanation of the tax implications of conversion for holders resident for tax purposes in the *United Kingdom*;
 - (e) if there is a trustee, or other representative, of the *securities* holders to be redeemed, a statement that the trustee, or other representative, has given its consent to the issue of the *circular* or stated that it has no objection to the resolution being put to a meeting of the *securities* holders;

- (f) reference to future opportunities to convert and whether the terms of conversion will be the same as or will differ from those available at present, or, if there are no such opportunities, disclosure of that fact;
- (g) reference to letters of indemnity, for example, if certificates have been lost;
- (h) if power exists to allot *shares* issued on conversion to another person, reference to forms of nomination; and
- (i) a statement as to whether holders exercising their rights of conversion will retain the next interest payment due on the *securities*.

(2) The *circular* must not contain specific advice as to whether or not to convert the *securities*.

Election of independent directors

13.8.17

R

Where a *listed company* has a *controlling shareholder*, a *circular* to shareholders relating to the election or re-election of an *independent director* must include:

- (1) details of any existing or previous relationship, transaction or arrangement the proposed *independent director* has or had with the *listed company*, its *directors*, any *controlling shareholder* or any associate of a *controlling shareholder* or a confirmation that there have been no such relationships, transactions or arrangements; and
- (2) a description of:
 - (a) why the *listed company* considers the proposed *independent director* will be an effective *director*;
 - (b) how the *listed company* has determined that the proposed *director* is an *independent director*; and
 - (c) the process followed by the *listed company* for the selection of the proposed *independent director*.

13.8.18

R

In relation to a *listed company* which did not previously have a *controlling shareholder*, ■ LR 13.8.17 R does not apply to a *circular* sent to shareholders within a period of 3 months from the event that resulted in a *person* becoming a *controlling shareholder* of the *listed company*.

Class 1 circulars

The following table identifies (by reference to certain paragraphs of Annex 1 and Annex 3 of the *PD Regulation*) the additional information required to be included in a *class 1 circular* relating to the *listed company* and the undertaking the subject of the transaction.

Information	Listed Company	Undertaking the subject of the transaction
Annex 1 item 4 – Risk factors	*	*
Annex 1 item 5.1.1 – Company name	*	
Annex 1 item 5.1.4 – Company address	*	
Annex 1 item 12 – Trend information	*	*
Annex 1 item 16.2 – Service contracts	*	
Annex 1 item 17.2 – Director's interests in shares	*	
Annex 1 item 18.1 – Major interests in shares	*	
Annex 1 item 19 – Related party transactions	*	
Annex 1 item 20.8 – Litigation	*	*
Annex 1 item 20.9 – Significant changes	*	*
Annex 1 item 22 – Material contracts	*	*
Annex 1 item 24 – Documents on display	*	
Annex 3 item 3.1 – Working capital	*	*

LR 13 Annex 1.1

- 1 The information required by this Annex must be presented as follows:
 - (1) the information required by Annex 1 item 22 (material contracts), Annex 1 item 20.8 (litigation) and Annex 1 item 20.9 (significant change)
 - (a) for an acquisition, in separate statements for the *listed company* and its *subsidiary undertakings* and for the undertaking, business or assets to be acquired; or
 - (b) for a disposal, in separate statements for the *listed company* and its *subsidiary undertakings* (on the basis that the disposal has taken place), and for the undertaking, business or assets to be disposed of;
 - (2) the information required by Annex 3 item 3.1 (working capital) and, if relevant Annex 1 item 12 (trend information):
 - (a) in the case of an acquisition, in a single statement for the *listed company* and its *subsidiary undertakings* (on the basis that the acquisition has taken place); or
 - (b) in the case of a disposal, in a single statement for the *listed company* and its *subsidiary undertakings* (on the basis that the disposal has taken place).
- 2 In determining what information is required to be included by virtue of Annex 1 item 22 (material contracts) if a *prospectus* or *listing particulars* are not required, regard should be had to whether information about that provision is information which *securities* hold-

ers of the *issuer* would reasonably require for the purpose of making a properly informed assessment about the way in which to exercise the voting rights attached to their *securities* or the way in which to take any other action required of them related to the subject matter of the *circular*.

3

The information required by this Annex is modified as follows:

- (1) if the *listed company* is issuing *shares* for which *listing* is sought, the information regarding major interests in *shares* (Annex 1 item 18.1) and *directors'* interests in *shares* (Annex 1 item 17.2) must be given for the share capital both as existing and as enlarged by the *shares* for which *listing* is sought;
- (2) information required by Annex 1 item 19 (related party transactions) and Annex 1 item 16.2 (directors' service contracts) does not need to be given if it has already been published before the circular is sent;
- (3) information referred to in Annex 3 item 3.1 (Working capital) is not required to be included in a *class 1 circular* published by a *closed-ended investment fund*;
- (4) information required by Annex 1 item 4 should be provided only in respect of those risk factors which:
 - (a) are material risk factors to the proposed transaction;
 - (b) will be material new risk factors to the *group* as a result of the proposed transaction; or
 - (c) are existing material risk factors to the *group* which will be impacted by the proposed transaction; and
- (5) information required by Annex 1 item 24 must include a copy of the Sale and Purchase Agreement (or equivalent document) if applicable.