

Chapter 9

Continuing obligations



9.3 Continuing obligations: holders

9.3.1 **R** [deleted]

9.3.2 **G** [deleted]

9.3.3 **R** [deleted]

9.3.4 **R** [deleted]

9.3.5 **R** [deleted]

Proxy forms

9.3.6 **R** A *listed company* must ensure that, in addition to its obligations under the Companies Act 2006, a proxy form:

- (1) [deleted]
- (2) provides for at least three-way voting on all resolutions intended to be proposed (except that it is not necessary to provide proxy forms with three-way voting on procedural resolutions); and
- (3) [deleted]
- (4) states that if it is returned without an indication as to how the proxy shall vote on any particular matter, the proxy will exercise his discretion as to whether, and if so how, he votes.

Proxy forms for re-election of retiring directors

9.3.7 **R** If the resolutions to be proposed include the re-election of retiring *directors* and the number of retiring *directors* standing for re-election exceeds five, the proxy form may give shareholders the opportunity to vote for or against (or abstain from voting on) the re-election of the retiring *directors* as a whole but must also allow votes to be cast for or against (or for shareholders to abstain from voting on) the re-election of the retiring *directors* individually.

9.3.8 **R** [deleted]

Sanctions

9.3.9

R

Where a *listed company* has taken a power in its *constitution* to impose sanctions on a shareholder who is in default in complying with a notice served under section 793 of the Companies Act 2006 (Notice by company requiring information about interests in its shares):

- (1) sanctions may not take effect earlier than 14 days after service of the notice;
- (2) for a shareholding of less than 0.25% of the *shares* of a particular *class* (calculated exclusive of *treasury shares*), the only sanction the *constitution* may provide for is a prohibition against attending meetings and voting;
- (3) for a shareholding of 0.25% or more of the *shares* of a particular *class* (calculated exclusive of *treasury shares*), the *constitution* may provide:
 - (a) for a prohibition against attending meetings and voting;
 - (b) for the withholding of the payment of dividends (including *shares* issued in lieu of dividend) on the *shares* concerned; and
 - (c) for the placing of restrictions on the transfer of *shares*, provided that restrictions on transfer do not apply to a sale to a genuine unconnected third party (such as through a *RIE* or an *overseas* exchange or by the acceptance of a takeover offer); and
- (4) any sanctions imposed in accordance with paragraph (2) or (3) above must cease to apply after a specified period of not more than seven days after the earlier of:
 - (a) receipt by the *issuer* of notice that the shareholding has been sold to an unconnected third party through a *RIE* or an *overseas* exchange or by the acceptance of a takeover offer; and
 - (b) due compliance, to the satisfaction of the *issuer*, with the notice under section 793.

9.3.10

G

An *overseas company* with a *premium listing* is not required to comply with ■ LR 9.3.9 R.

Pre-emption rights

9.3.11

R

A *listed company* proposing to issue *equity securities* for cash or to sell *treasury shares* that are *equity shares* for cash must first offer those *equity securities* in proportion to their existing holdings to:

- (1) existing holders of that class of *equity shares* (other than the *listed company* itself by virtue of it holding *treasury shares*); and
- (2) holders of other *equity shares* of the *listed company* who are entitled to be offered them.

9.3.12

R

■ LR 9.3.11 R does not apply to:

- (1) a *listed company* incorporated in the *United Kingdom* if a disapplication of statutory pre-emption rights has been authorised by

shareholders in accordance with section 570 (Disapplication of pre-emption rights: directors acting under general authorisation) or section 571 (Disapplication of pre-emption rights by special resolution) of the Companies Act 2006 and the issue of *equity securities* or sale of *treasury shares* that are *equity shares* by the *listed company* is within the terms of the authority; or

- (2) a *listed company* undertaking a *rights issue* or *open offer* provided the disapplication of pre-emption rights is with respect to:
 - (a) *equity securities* representing fractional entitlements; or
 - (b) *equity securities* which the *company* considers necessary or expedient to exclude from the offer on account of the laws or regulatory requirements of a territory other than its country of incorporation unless that territory is the *United Kingdom*; or
- (3) a *listed company* selling *treasury shares* for cash to an *employee share scheme*; or
- (4) an *overseas company* with a *premium listing* if a disapplication of statutory pre-emption rights has been authorised by shareholders that is equivalent to an authority given in accordance either with section 570 or section 571 of the Companies Act 2006 or in accordance with the law of its country of incorporation provided that the country has implemented article 29 of Directive 77/91/EEC or article 33 of Directive 2012/30/EU and the issue of *equity securities* or sale of *treasury shares* that are *equity shares* by the *listed company* is within the terms of the authority; or
- (5) an *open-ended investment company*.