

**LISTING, PROSPECTUS AND DISCLOSURE AND TRANSPARENCY RULES
(MISCELLANEOUS AMENDMENTS NO 3) INSTRUMENT 2015**

Powers exercised

- A. The Financial Conduct Authority makes this instrument in the exercise of the following powers and related provisions in the Financial Services and Markets Act 2000 (the “Act”):
- (1) section 73A (Part 6 Rules);
 - (2) section 84 (Prospectus rules);
 - (3) section 89C (Transparency rules);
 - (4) section 89O (Corporate governance rules);
 - (5) section 96 (Obligations of issuers of listed securities);
 - (6) paragraph 23 (Fees) of Part 3 (Penalties and Fees) of Schedule 1ZA;
 - (7) section 137A (General rule-making power);
 - (8) section 137T (General supplementary powers); and
 - (9) section 139A (Guidance).
- B. The rule-making powers listed above are specified for the purpose of section 138G(2) (Rule-making instruments) of the Act.

Commencement

- C. This instrument comes into force as follows:
- (1) Annex B (FEES) and Part 2 of Annex C (LR) come into force on 1 April 2015;
 - (2) the remainder of this instrument comes into force on 1 February 2015.

Amendments to the FCA Handbook

- D. The modules of the FCA’s Handbook of rules and guidance listed in column (1) below are amended in accordance with the Annexes to this instrument listed in column (2).

(1)	(2)
Glossary of definitions	Annex A
Fees manual (FEES)	Annex B
Listing Rules sourcebook (LR)	Annex C
Prospectus Rules sourcebook (PR)	Annex D
Disclosure Rules and Transparency Rules sourcebook (DTR)	Annex E

Notes

- E. In Annex C to this instrument, the “notes” (indicated by “**Note:**”) are included for the convenience of readers but do not form part of the legislative text.

Citation

- F. This instrument may be cited as the Listing, Prospectus and Disclosure and Transparency Rules (Miscellaneous Amendments No 3) Instrument 2015.

By order of the Board of the Financial Conduct Authority
29 January 2015

Annex A

Amendments to the Glossary of definitions

In this Annex, underlining indicates new text and striking through indicates deleted text, unless otherwise stated.

Insert the following new definitions in the appropriate alphabetical position. The text is not underlined.

<i>ESMA Prospectus Opinion</i>	the opinion published by <i>ESMA</i> on the ‘Format of the base prospectus and consistent application of Article 26(4) of the Prospectus Regulation’ (ESMA/2013/1944).
<i>ESMA Prospectus Questions and Answers</i>	the Questions and Answers for prospectuses published by <i>ESMA</i> (ESMA/2014/1279).
<i>Prospectus RTS Regulation</i>	the Commission Delegated Regulation (EU) No 382/2014 supplementing Directive 2003/71/EC of the European Parliament and of the Council with regard to regulatory technical standards for publication of supplements to the prospectus.

Amend the following definitions as shown.

<i>ESMA recommendations Prospectus Recommendations</i>	the <u>ESMA update of the CESR recommendations for the:</u> The consistent implementation of the European Commission’s Commission Regulation on Prospectuses (EC) No 809/2004 published by the European Securities and Markets Authority implementing the Prospectus Directive (ESMA/2011/84 2013/319). <u>Commission Regulation on Prospectuses (EC) No 809/2004 published by the European Securities and Markets Authority implementing the Prospectus Directive (ESMA/2011/84 2013/319).</u>
<i>mineral expert’s report</i>	(in <i>LR</i>) a competent person’s report prepared in accordance with paragraph 133 of the ESMA recommendations <u>ESMA Prospectus Recommendations.</u>
<i>UK Corporate Governance Code</i>	(a) <u>(except in <i>LR</i> and <i>DTR</i>)</u> the UK Corporate Governance Code published in May 2010 by the Financial Reporting Council. (b) <u>(in <i>LR</i> and <i>DTR</i>)</u> the UK Corporate Governance Code published in September 2012 by the Financial Reporting Council.

Annex B

Amendments to the Fees manual (FEES)

In this Annex, underlining indicates new text.

Comes into force on 1 April 2015

3 Annex 5R Document vetting and approval fees in relation to listing and prospectus rules

Part 1		
Fee type		Fee amount £
Transaction vetting fees Transaction vetting fees relate to specific events or transactions that an <i>issuer</i> might be involved in during the year.		
...		
<u>Category 2A</u>	<u>Approval of a material change to the published investment policy of a closed-ended investment fund under LR 15.4.8R</u>	<u>650</u>
...		

...

Annex C

Amendments to the Listing Rules sourcebook (LR)

In this Annex, underlining indicates new text and striking through indicates deleted text, unless otherwise stated.

Part 1: Comes into force on 1 February 2015

6 Additional requirements for premium listing (commercial company)

6.1 Application

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Historical financial information

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6.1.3D R Where the *new applicant* has made an acquisition or series of acquisitions such that its own consolidated financial information is insufficient to meet the 75% requirement in LR 6.1.3BR, there must be historical financial information relating to the acquired entity or entities which has been published or filed and that:

(1) covers the period from at least three years prior to the date under LR 6.1.3R(1)(b) up to ~~at least the date of acquisition by the *new applicant*~~; the earlier of:

(a) the date in LR 6.1.3R(1)(b); or

(b) the date of acquisition by the *new applicant*;

...

...

9 Continuing obligations

...

9.8 Annual financial report

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Auditors report

9.8.10 R A *listed company* must ensure that the auditors review each of the following before the annual report is published:

...

- (2) the parts of the statement required by *LR 9.8.6R(6)* (corporate governance) that relate to the following provisions of the *UK Corporate Governance Code*:

...

- (c) C.3.1 to ~~C.3.7~~ C.3.8.

...

10 Significant transactions: Premium listing

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10.7 Transactions by specialist companies

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Classification of transactions by listed mineral companies

- 10.7.5 R (1) In addition to the tests in *LR 10 Annex 1G*, a *listed mineral company* undertaking a transaction involving significant *mineral resources* or rights to significant mineral resources must determine the *percentage ratios* that result from the calculations under the test in paragraph (2).

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11 Related party transactions: Premium listing

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11 Annex 1R Transactions to which related party transaction rules do not apply

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		Insignificant subsidiary undertaking
9	...	
	(3)	The <i>subsidiary undertaking</i> or each of the <i>subsidiary undertakings</i> (as the case may be) have been in the <i>listed company's group group</i> for ± <u>one full financial year</u> or more.
	(4)	In paragraph (2), "relevant period" means:
	(a)	if the <i>subsidiary undertaking</i> or each of the <i>subsidiary undertakings</i> (as the case may be) have

			has been part of <u>consolidated in</u> the <i>listed company's</i> group <u>group</u> for more than 1 <u>one full financial year</u> or more but less than 3 <u>three full financial</u> years, each of the <u>full</u> financial years before the date of the transaction or arrangement for which accounts have been published; and
		(b)	if the <i>subsidiary undertaking</i> or any of the <i>subsidiary undertakings</i> (as the case may be) have has been part of <u>consolidated in</u> the <i>listed company's</i> group <u>group</u> for 3 <u>three full financial</u> years or more, each of the 3 <u>three full</u> financial years before the date of the transaction or arrangement for which accounts have been published.
...			

...

13 Premium listing

...

13.4 Class 1 circulars

...

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:

...

...

Acquisition of a scientific research based company or related assets

13.4.8 R 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 recommendations* Prospectus Recommendations.

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13.5 Financial information in Class 1 Circulars

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Accounting policies

13.5.4 R ...

(2) The requirement set out in (1) does not apply when financial information is presented in accordance with:

...

(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 13.5.32R (in relation to a *profit forecast* or a *profit estimate*).

...

Appendix 1 Relevant definitions

Note: The following definitions relevant to the *listing rules* are extracted from the *Glossary*.

App 1.1.1

...		
<i>ESMA recommendations Prospectus Recommendations</i>		the <u>ESMA</u> update of the <u>CESR</u> recommendations for the ; The consistent implementation of the European Commission's <u>Commission Regulation on Prospectuses (EC) No 809/2004 published by the European Securities and Markets Authority implementing the Prospectus Directive (ESMA/2011/842013/319)</u> .
...		
<i>investment trust</i>		a <i>company listed in the United Kingdom</i> or another <i>EEA State</i> which:
	(a)	is approved by the Commissioners for HM Revenue and Customs under section sections <u>842 1158 and 1159</u> of the <u>Income and Corporation Taxes Act 1988 Corporation Tax Act 2010</u> (or, in the case of a newly formed <i>company</i> , has declared its intention to conduct its affairs so as to obtain such approval); or
	...	
...		
<i>mineral expert's</i>		a competent person's report prepared in accordance with

<i>report</i>	paragraph 133 of the <i>ESMA recommendations Prospectus Recommendations</i> .
...	
<i>UK Corporate Governance Code</i>	in relation to an issuer , the UK Corporate Governance Code published in May 2010 <u>September 2012</u> by the Financial Reporting Council.
...	

...

Insert the following text after LR TR 12. The text is not underlined.

TR 13 Transitional Provisions for the UK Corporate Governance Code

(1)	(2) Material to which the transitional provision applies	(3)	(4) Transitional provision	(5) Transitional provision: dates in force	(6) Handbook provision coming into force
1.	<i>LR 9.8.6R(5), LR 9.8.6R(6) and LR 15.6.6R(2)</i>	R	<p>(1) Where a <i>listed company</i> or a <i>closed-ended investment fund</i> has an accounting period ending before 30 September 2013, a reference to a Main Principle, principle or provision in the <i>UK Corporate Governance Code</i> is a reference to the Main Principle, principle or provision in the UK Corporate Governance Code published by the Financial Reporting Council in May 2010.</p> <p>(2) Where a <i>listed company</i> or a <i>closed-ended investment fund</i> has an accounting period ending on or after 30 September 2013 but before 1 February 2015, a reference to a Main Principle, principle or provision in the <i>UK Corporate Governance Code</i></p>	From 1 February 2015	1 February 2015

			<p>may be read as:</p> <p>(a) a reference to the Main Principle, principle or provision in the UK Corporate Governance Code published by the Financial Reporting Council in May 2010; or</p> <p>(b) a reference to the Main Principle, principle or provision in the UK Corporate Governance Code published by the Financial Reporting Council in September 2012.</p>		
2.	LR 9.8.6R(5), LR 9.8.6R(6) and LR 15.6.6R(2)	G	<p>Where LR TR 13.1R(2) applies, and a <i>listed company</i> or a <i>closed-ended investment fund</i> has applied the UK Corporate Governance Code published by the Financial Reporting Council in May 2010, the FCA expects a <i>listed company</i> or a <i>closed-ended investment fund</i> to disclose this in any statement required under LR 9.8.6R(5) (Application of main principles), LR 9.8.6R(6) (Comply or explain) or LR 15.6.6R(2) (Closed-ended investment fund with no executive directors).</p>	From 1 February 2015	1 February 2015
3.	LR 9.8.10R	R	<p>(1) Where a <i>listed company</i> or a <i>closed-ended investment fund</i> has an accounting period ending before 30 September 2013, the <i>listed company</i> or <i>closed-ended investment fund</i> must ensure that the auditors review each of the following before the annual report is published:</p> <p>(a) LR 9.8.6R(3) (Statement by the directors that the business is a going concern); and</p>	From 1 February 2015	1 February 2015

			<p>(b) parts of the statement required by <i>LR 9.8.6R(6)</i> (Comply or explain) that relate to provisions C.1.1, C.2.1 and C.3.1 to C.3.7 of the UK Corporate Governance Code published by the Financial Reporting Council in May 2010.</p> <p>(2) Where a <i>listed company</i> or a <i>closed-ended investment fund</i> has an accounting period ending on or after 30 September 2013 but before 1 February 2015, the <i>listed company must</i>:</p> <p>(a) comply with <i>LR 9.8.10R</i> (Auditors report); or</p> <p>(b) ensure that the auditors review each of the following before the annual report is published:</p> <p>(i) <i>LR 9.8.6R(3)</i> (statement by the directors that the business is a going concern); and</p> <p>(ii) parts of the statement required by <i>LR 9.8.6R(6)</i> (Comply or explain) that relate to provisions C.1.1, C.2.1 and C.3.1 to C.3.7 of the UK Corporate Governance Code published by the Financial Reporting Council in May 2010.</p>	
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Part 2: Comes into force on 1 April 2015

13 Premium listing

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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 12.4.10G]
 - (4) a circular that proposes a reconstruction or a refinancing of a listed company which is required by LR 9.5.12R 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 5.2.5R(1); or
 - (6) a circular that proposes a transfer of listing which is required to be sent to shareholders under LR 5.4A.4R(2).

Circulars not requiring approval

- 13.2.2 R ~~A circular does not need to be approved under LR 13.2.1R if:~~
- (1) ~~it is of a type referred to in LR 13.8, or only relates to a proposed change of name, or is an information only circular which does not relate to a shareholder vote, other than of a type referred to in LR 13.4.3R(3);~~
 - (2) ~~it complies with LR 13.3 and also, if it is a circular referred to in LR 13.8, any relevant requirements in that section; and~~
 - (3) ~~neither it, nor the transaction or matter to which it relates, has unusual features. [deleted]~~
- 13.2.2A G ~~The FCA may agree to waive the requirement for approval of a circular in circumstances other than those set out in LR 13.2.2R. [deleted]~~

~~When circulars about purchase of own equity shares need approval~~

- 13.2.3 R (1) ~~A circular relating to a resolution to give a listed company authority~~

~~to purchase its own equity shares must be approved by the FCA under LR 13.2.1R if:~~

- ~~(a) the purchase by the company of its own equity shares is to be made from a related party (whether directly or through intermediaries); or~~
 - ~~(b) 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).~~
- ~~(2) A circular referred to in paragraph (1)(a) does not need to be approved if:~~
- ~~(a) a tender is made to all holders of the class of securities on the same terms; or~~
 - ~~(b) for a market purchase under a general authority granted by shareholders, it is made without prior understanding, arrangement or agreement between the company and any related party. [deleted]~~

...

13.8 Other circulars

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Notices of meetings

13.8.8 R ...

- ~~(2) A circular or other document convening an annual general meeting at which only ordinary business is to be conducted and, if applicable, any other matter covered by this section is to be considered or proposed, need not be submitted to the FCA for prior approval if, for the other matter to be considered or proposed, the circular or other document complies with the relevant provisions of this section. [deleted]~~

...

...

15 Closed-Ended Investment Funds: Premium listing

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15.4 Continuing obligations

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~~Shareholder approval for material~~ Material changes to investment policy

- 15.4.8 R ~~A Unless LR 15.4.8AR applies, a closed-ended investment fund must; obtain the prior approval of its shareholders to any material change to its published investment policy~~
- (1) submit any proposed material change to its published investment policy to the FCA for approval; and
 - (2) having obtained the FCA's approval, obtain the prior approval of its shareholders to any material change to its published investment policy.
- 15.4.8A R A closed-ended investment fund is not required to seek the FCA's approval for a material change to its published investment policy if:
- (1) the change is proposed to enable the winding up of the closed-ended investment fund; and
 - (2) the winding up:
 - (a) is in accordance with the constitution of the closed-ended investment fund; and
 - (b) will be submitted for approval by the shareholders of the closed-ended investment fund at the same time as the proposed material change to the investment policy.

Annex D

Amendments to the Prospectus Rules sourcebook (PR)

In this Annex, underlining indicates new text and striking through indicates deleted text.

1 Preliminary

1.1 Preliminary

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Provisions implementing the prospectus directive

- 1.1.6 G The FCA considers that the following documents ~~need to be considered~~ together to determine the effect of the *prospectus directive*:

...

(3) these *rules*; ~~and~~

(4) the ~~ESMA recommendations~~ Prospectus Recommendations;

(5) the ESMA Prospectus Questions and Answers;

(6) the ESMA Prospectus Opinion; and

(7) the Prospectus RTS Regulation.

- 1.1.7 G To assist readers, extracts from the ~~Act and~~ the *PD Regulation* and the Prospectus RTS Regulation are reproduced in the text of these *rules*. Readers should however consult those documents themselves to see the full text.

ESMA ~~recommendations~~ materials

- 1.1.8 G In determining whether Part 6 of the *Act*, these *rules* ~~and~~ the *PD Regulation* and the Prospectus RTS Regulation have been complied with, the *FCA* will ~~take into account~~ consider whether a *person* has ~~complied~~ acted in accordance with the ESMA ~~recommendations~~ Prospectus Recommendations, the ESMA Prospectus Questions and Answers and the ESMA Prospectus Opinion.

...

5.6 Miscellaneous

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Property Valuation Reports

5.6.5 G To comply with paragraph 130 of the *ESMA recommendations Prospectus Recommendations*, the FCA would expect a valuation report for a property company to be in accordance with either:

...

...

Insert the following new definitions in the appropriate alphabetical position and amend the existing definitions as shown.

App 1.1 Relevant definitions

App 1.1.1 **Note:** The following definitions relevant to the *prospectus rules* are extracted from the *Glossary*.

...	
<u>ESMA Prospectus Opinion</u>	the opinion published by <i>ESMA</i> on the ‘Format of the base prospectus and consistent application of Article 26(4) of the Prospectus Regulation’ (ESMA/2013/1944).
<u>ESMA Prospectus Questions and Answers</u>	the Questions and Answers for prospectuses published by <i>ESMA</i> (ESMA/2014/1279).
...	
<u>ESMA recommendations Prospectus Recommendations</u>	the <i>ESMA</i> update of the CESR recommendations for the: The consistent implementation of the European Commission’s Commission Regulation on Prospectuses (EC) No 809/2004 published by the European Securities and Markets Authority implementing the Prospectus Directive (ESMA/2014/842013/319).
...	
<u>Prospectus RTS Regulation</u>	the Commission Delegated Regulation (EU) No 382/2014 supplementing Directive 2003/71/EC of the European Parliament and of the Council with regard to regulatory technical standards for publication of supplements to the prospectus.
...	

Annex E

Amendments to the Disclosure Rules and Transparency Rules sourcebook (DTR)

In this Annex, underlining indicates new text and striking through indicates deleted text.

6 Continuing obligations and access to information

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Filing of information with the FCA

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- 6.2.3 G An issuer or person that discloses regulated information may comply with *DTR* 6.2.2R by using a ~~RIS~~ primary information provider to disseminate the information in accordance with *DTR* 6.3.

...

7 Corporate governance

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Audit committees and their functions

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- 7.1.7 G In the *FCA's* view, compliance with provisions A.1.2, C.3.1, C.3.2, ~~and C.3.3 and C.3.8~~ of the *UK Corporate Governance Code* will result in compliance with *DTR* 7.1.1R to *DTR* 7.1.5R.

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7.2 Corporate governance statements

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- 7.2.8 G In the *FCA's* view, the information specified in provisions A.1.1, A.1.2, B.2.4, D.2.1, ~~and C.3.3~~ and C.3.8 of the *UK Corporate Governance Code* will satisfy the requirements of *DTR* 7.2.7R.

...

TP 1 Disclosure and transparency rules

DTR Sourcebook - Transitional Provisions

(1)	(2) Material to which the Transitional provisions applies	(3)	(4) Transitional provision	(5) Transitional Provision: dates in force	(6) Handbook Provision: coming into force
...					
24	<u>DTR 7.1.7G</u> and <u>DTR 7.2.8G</u>	R	<p>(1) Where an <i>issuer</i> has an <u>accounting period ending before 30 September 2013</u>, a reference to a <u>provision in the UK Corporate Governance Code</u> is a reference to the <u>provision in the UK Corporate Governance Code published by the Financial Reporting Council in May 2010</u>.</p> <p>(2) Where an <i>issuer</i> has an <u>accounting period ending on or after 30 September 2013 but before 1 February 2015</u>, a reference to a <u>provision in the UK Corporate Governance Code</u> may be read as:</p> <p>(a) a reference to the <u>provision in the UK Corporate Governance Code published by the Financial Reporting Council in May 2010</u>; or</p> <p>(b) a reference to the <u>provision in the UK Corporate Governance Code published by the Financial Reporting Council in September 2012</u>.</p>	From <u>1 February 2015</u>	<u>1 February 2015</u>

25	<u>DTR 7.2.4G</u>	<u>R</u>	<p>(1) Where an <i>issuer</i> has an <u>accounting period ending before 30 September 2013</u>, a reference to the <u>UK Corporate Governance Code</u> is a reference to the <u>UK Corporate Governance Code published by the Financial Reporting Council in May 2010</u>.</p> <p>(2) Where an <i>issuer</i> has an <u>accounting period ending on or after 30 September 2013 but before 1 February 2015</u>, a reference to the <u>UK Corporate Governance Code</u> may be read as:</p> <p>(a) a reference to the <u>UK Corporate Governance Code published by the Financial Reporting Council in May 2010</u>; or</p> <p>(b) a reference to the <u>UK Corporate Governance Code published by the Financial Reporting Council in September 2012</u>.</p>	<u>From 1 February 2015</u>	<u>1 February 2015</u>
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