

**DISCLOSURE RULES AND TRANSPARENCY RULES SOURCEBOOK
(STATUTORY AUDIT AMENDING DIRECTIVE) INSTRUMENT 2016**

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 89O (Corporate governance rules);
 - (3) section 137A (The FCA’s general rules);
 - (4) section 137T (General supplementary powers); and
 - (5) section 139A (Power of the FCA to give 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 on 17 June 2016.

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

Notes

- E. In Annex B 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 Disclosure Rules and Transparency Rules Sourcebook (Statutory Audit Amending Directive) Instrument 2016.

By order of the Board
16 June 2016

Annex A

Amendments to the Glossary of definitions

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

Audit Regulation Regulation (EU) No 537/2014 of the European Parliament and of the Council of 16 April 2014 on specific requirements regarding statutory audit of public-interest entities and repealing Commission Decision 2005/909/EC.

Annex B

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

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

1B Introduction (Corporate governance)

1B.1 Application and purpose (Corporate governance)

...

Exemptions

1B.1.3 R *DTR* 7.1 does not apply to:

(1) any *issuer* which is a *subsidiary undertaking* of a *parent undertaking* where the *parent undertaking* is subject to:

(a) *DTR* 7.1, or to requirements implementing ~~Article 41~~ article 39 of the *Audit Directive* in any other *EEA State*; and

(b) articles 11(1), 11(2) and 16(5) of the *Audit Regulation*;

[**Note:** ~~Article 41.6(a)~~ article 39(3)(a) of the *Audit Directive*]

(2) ...

[**Note:** ~~Article 41.6(c)~~ article 39(3)(c) of the *Audit Directive*]

(3) a *credit institution* whose *shares* are not *admitted to trading* and which has, in a continuous or repeated manner, issued only *debt securities* which are *admitted to trading* provided that:

(a) ...

(b) the *credit institution* has not been subject to a requirement to publish a prospectus in accordance with section 85 of the *Act*; and

[**Note:** ~~Article 41.6(d)~~ article 39(3)(d) of the *Audit Directive*]

(4) any *issuer* which is:

(a) a *UCITS*; or

(b) an *AIF*.

[**Note:** article 39(3)(b) of the *Audit Directive*]

...

7 Corporate governance

7.1 Audit committees

Audit committees and their functions

7.1.1 R An *issuer* must have a body ~~which is~~ or bodies responsible for performing the functions set out in *DTR* 7.1.3R. ~~At least one member of that body must be independent and at least one member must have competence in accounting and/or auditing.~~

- 7.1.1A R (1) A majority of the members of the relevant body must be independent.
- (2) At least one member of the relevant body must have competence in accounting or auditing, or both.
- (3) The members of the relevant body as a whole must have competence relevant to the sector in which the *issuer* is operating.

[Note: article 39(1) of the *Audit Directive*]

7.1.2 G The requirements for independence and competence in accounting and/or auditing may be satisfied by the same ~~member~~ members or by different members of the relevant body.

7.1.2A R The chairman of the relevant body must be:

- (1) independent; and
- (2) appointed by the members of the relevant body or by the administrative or supervisory body of the *issuer*.

[Note: article 39(1) of the *Audit Directive*]

- 7.1.3 R An *issuer* must ensure that, as a minimum, the relevant body must:
- (1) monitor the financial reporting process and submit recommendations or proposals to ensure its integrity;
- (2) monitor the effectiveness of the *issuer's* internal quality control; ~~internal audit where applicable~~; and risk management systems and, where applicable, its internal audit, regarding the financial reporting of the *issuer*, without breaching its independence;
- (3) monitor the statutory audit of the annual and consolidated ~~accounts~~ financial statements, in particular, its performance, taking into account any findings and conclusions by the Financial Reporting Council under article 26(6) of the *Audit Regulation*;

- (4) review and monitor the independence of the *statutory auditor*, and in particular the provision of additional services to the *issuer* in accordance with paragraphs 2(3), 2(4), 3 to 8 and 10 to 12 of Schedule 1 to the Statutory Auditors and Third Country Auditors Regulations 2016 (SI 2016/649) and article 6 of the *Audit Regulation*, and in particular the appropriateness of the provision of non-audit services to the *issuer* in accordance with article 5 of the *Audit Regulation*;
- (5) inform the administrative or supervisory body of the *issuer* of the outcome of the statutory audit and explain how the statutory audit contributed to the integrity of financial reporting and what the role of the relevant body was in that process; and
- (6) except when article 16(8) of the *Audit Regulation* is applied, be responsible for the procedure for the selection of *statutory auditor(s)* and recommend the *statutory auditor(s)* to be appointed in accordance with article 16 of the *Audit Regulation*.

[Note: article 39(6) of the *Audit Directive*]

- 7.1.4 R ~~An *issuer* must base any proposal to appoint a *statutory auditor* on a recommendation made by the relevant body. [deleted]~~

~~[Note: Article 41.3 of the *Audit Directive*]~~

- 7.1.5 R ~~The An *issuer* must make a statement available to the public disclosing which body carries out the functions required by DTR 7.1.3R and how it is composed.~~

~~[Note: ~~Article 41.5~~ article 39(4) (part) of the *Audit Directive*]~~

...

After DTR 8 insert the following new Appendix. The text is not underlined.

Appendix 1 Audit Committees for certain issuers

App 1.1

- App 1.1.1 In respect of a financial year beginning before 17 June 2016, DTR TP 27 requires an *issuer* to comply with the requirements in this appendix in relation to their audit committee unless it is an *issuer* listed in App 1.1.4.

- App 1.1.2 To assist *issuers*, this appendix adopts the text of DTR 7.1 before it was amended by the Disclosure Rules and Transparency Rules Sourcebook (Statutory Audit Amending Directive) Instrument 2016 in order to cover *issuers* in respect of a financial year beginning before 17 June 2016.

App
1.1.3

7.1	Audit committees	
Audit committees and their functions		
7.1.1	R	An <i>issuer</i> must have a body which is responsible for performing the functions set out in <i>DTR 7.1.3R</i> . At least one member of that body must be independent and at least one member must have competence in accounting and/or auditing.
7.1.2	G	The requirements for independence and competence in accounting and/or auditing may be satisfied by the same member or by different members of the relevant body.
7.1.3	R	An <i>issuer</i> must ensure that, as a minimum, the relevant body must:
		(1) monitor the financial reporting process;
		(2) monitor the effectiveness of the <i>issuer's</i> internal control, internal audit where applicable, and risk management systems;
		(3) monitor the statutory audit of the annual and consolidated accounts;
		(4) review and monitor the independence of the <i>statutory auditor</i> , and in particular the provision of additional services to the <i>issuer</i> .
7.1.4	R	An <i>issuer</i> must base any proposal to appoint a <i>statutory auditor</i> on a recommendation made by the relevant body.
[Note: Article 41.3 of the <i>Audit Directive</i>]		
7.1.5	R	The <i>issuer</i> must make a statement available to the public disclosing which body carries out the functions required by <i>DTR 7.1.3R</i> and how it is composed.
[Note: Article 41.5 (part) of the <i>Audit Directive</i>]		
7.1.6	G	An <i>issuer</i> may include the statement required by <i>DTR 7.1.5R</i> in any statement it is required to make under <i>DTR 7.2</i> (Corporate governance statements).
7.1.7	G	In the <i>FCA's</i> view, compliance with provisions A.1.2, C.3.1, C.3.2, C.3.3 and C.3.8 of the <i>UK Corporate Governance Code</i> will result in compliance with <i>DTR 7.1.1R</i> to <i>DTR 7.1.5R</i> .

App
1.1.4

This appendix does not apply to:

(1)	any <i>issuer</i> which is a <i>subsidiary undertaking</i> of a <i>parent undertaking</i> where the <i>parent undertaking</i> is subject to <i>DTR 7.1</i> , or to requirements implementing Article 41 of the <i>Audit Directive</i> in any other <i>EEA State</i> ; or
	[Note: Article 41.6(a) of the <i>Audit Directive</i>]
(2)	any <i>issuer</i> the sole business of which is to act as the issuer of <i>asset-backed securities</i> provided the entity makes a statement available to the public setting out the reasons for which it considers it is not appropriate to have either an audit committee or an administrative or supervisory body entrusted to carry out the functions of an audit committee; or
	[Note: Article 41.6(c) of the <i>Audit Directive</i>]
(3)	a <i>credit institution</i> whose <i>shares</i> are not <i>admitted to trading</i> and which has, in a continuous or repeated manner, issued only <i>debt securities</i> provided that:
	(a) the total nominal amount of all such <i>debt securities</i> remains below 100,000,000 Euros; and
	(b) the <i>credit institution</i> has not been subject to a requirement to publish a prospectus in accordance with section 85 of the <i>Act</i> .
	[Note: Article 41.6(d) of the <i>Audit Directive</i>]

Amend the following as shown.

TP 1 Disclosure and transparency rules

Transitional Provisions

(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
...					
5A	<i>DTR 4.1.7R(4)</i>	R	<i>DTR 4.1.7R(4)</i> shall have effect as follows: An <i>issuer</i> whose financial year begins before 29 June 2008 must comply with <i>DTR 4.1.7R(4)</i> as of the beginning of its next	From 29 June 2008	29 June 2008

			financial year. [deleted]		
...					
14	All of <i>DTR</i> chapter 7	R	<i>DTR 7</i> shall have effect as follows: An issuer whose financial year begins before 29 June 2008 must comply with <i>DTR 7</i> as of the beginning of its next financial year. [deleted]	From 29 June 2008	29 June 2008
...					
<u>27</u>	<u><i>DTR 1B.1.3R</i> and <i>DTR 7.1</i></u>	<u>R</u>	(1) <u><i>DTR 1B.1.3R</i> and <i>DTR 7.1</i> do not apply to an issuer in respect of a financial year beginning before 17 June 2016.</u> (2) <u>In respect of a financial year beginning before 17 June 2016 an issuer must instead comply with the requirements in <i>DTR App 1</i> for that financial year unless it is an issuer listed in <i>DTR App 1.1.4</i>.</u>	<u>From 17 June 2016 to 30 September 2018</u>	<u>17 June 2016</u>