

**TECHNICAL STANDARDS (TRANSPARENCY DIRECTIVE) (EU EXIT)
INSTRUMENT 2019**

Powers exercised

- A. The Financial Conduct Authority (“the FCA”), being the appropriate regulator within the meaning of The Financial Regulators’ Powers (Technical Standards etc.) (Amendment etc.) (EU Exit) Regulations 2018 (“the Regulations”), with the approval of the Treasury, makes this instrument in exercise of the power conferred by regulation 3 of the Regulations.

Pre-conditions to making

- B. The FCA is the appropriate regulator for the EU Regulations specified in Part 1 of the Schedule to the Regulations.
- C. The FCA has consulted the Prudential Regulation Authority and the Bank of England as appropriate in accordance with regulation 5 of the Regulations.
- D. A draft of this instrument has been approved by the Treasury, the Minister considering that it makes appropriate provision to prevent, remedy or mitigate any failure of retained EU law to operate effectively, or any other deficiency in retained EU law, arising from the withdrawal of the United Kingdom from the European Union.

Interpretation

- E. Any reference in this instrument to any EU Regulation or EU tertiary legislation (within the meaning of section 20 of the European Union (Withdrawal) Act 2018) is, unless the contrary intention appears, to be treated as a reference to that EU regulation or EU tertiary legislation which is part of UK law by virtue of the European Union (Withdrawal) Act 2018.

Modifications

- F. The FCA thereafter amends the following EU Regulation in accordance with Annex A of this instrument.

(1)	(2)
Commission Delegated Regulation (EU) 2015/761 of 17 December 2014 supplementing Directive 2004/109/EC of the European Parliament and of the Council with regard to certain regulatory technical standards on major holdings	Annex A

Revocations

G. The FCA revokes the following EU Regulation.

Commission Delegated Regulation (EU) 2016/1437 of 19 May 2016 supplementing Directive 2004/109/EC of the European Parliament and of the Council with regard to regulatory technical standards on access to regulated information at Union level

Commencement

H. This instrument comes into force on exit day as defined in the European Union (Withdrawal) Act 2018.

Citation

I. This instrument may be cited as the Technical Standards (Transparency Directive) (EU Exit) Instrument 2019.

By order of the Board
28 March 2019

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

Annex A

Commission Delegated Regulation (EU) 2015/761 of 17 December 2014 supplementing Directive 2004/109/EC of the European Parliament and of the Council with regard to certain regulatory technical standards on major holdings

~~(Text with EEA relevance)~~

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Article -1

Definitions

1. For the purposes of this Regulation the following definitions apply:
 - (a) 'the Disclosure Guidance and Transparency Rules sourcebook' means the Disclosure Guidance and Transparency Rules sourcebook made by the Financial Conduct Authority under the Financial Services and Markets Act 2000, as it has effect on exit day;
 - (b) 'issuer' means a natural person, or a legal entity governed by private or public law, including a State, whose securities are admitted to trading on a UK regulated market. In the case of depository receipts admitted to trading on a UK regulated market, the issuer means the issuer of the securities represented, whether or not those securities are admitted to trading on a UK regulated market;
 - (c) 'securities' means transferable securities as defined in Article 2(1)(24) of Regulation 600/2014/EU, as amended by the Markets in Financial Instruments (Amendment) (EU Exit) Regulations 2018, with the exception of money market instruments as defined in Article 2(1)(25A) of that Regulation having a maturity of less than 12 months;
 - (d) 'UK regulated market' has the meaning given in Article 2(1)(13A) of Regulation 600/2014/EU, as amended by the Markets in Financial Instruments (Amendment) (EU Exit) Regulations 2018;
 - (e) 'exit day' has the meaning given in the European Union (Withdrawal) Act 2018.

Article 1

Subject matter

This Regulation lays down detailed rules ~~for the implementation of Article 9(6b), Article 13(1a)(a) and (b) and Article 13(4) of Directive 2004/109/EC~~ to specify:

- (a) the method of calculating any percentage threshold applying for the purposes of rule 5.1.3 of the Disclosure Guidance and Transparency Rules sourcebook;
- (b) the method for calculating the number of voting rights in the case of financial instruments referenced to a basket of shares or an index;
- (c) the methods for determining delta for the purposes of calculating voting rights relating to financial instruments which provide exclusively for a cash settlement;
- (d) the cases in which the exemptions laid down in rules 5.1.3, 5.4.1, 5.4.2 and 5.8.6 of the Disclosure Guidance and Transparency Rules sourcebook apply to financial instruments held by a person fulfilling orders received from clients or responding to a client's requests to trade otherwise than on a proprietary basis, or hedging positions arising out of such dealings.

Article 2

Aggregation of holdings

For the purpose of calculation of the 5% thresholds referred to in ~~Article 9(5) and (6) of Directive 2004/109/EC~~ paragraphs (3) and (4) of rule 5.1.3 of the Disclosure Guidance and Transparency Rules sourcebook, holdings under UK law corresponding to Articles 9, 10 and 13 of that Directive 2004/109/EC shall be aggregated.

Article 3

Aggregation of holdings in the case of a group

For the purpose of calculation of the 5% thresholds referred to in ~~Article 9(5) and (6) of Directive 2004/109/EC~~ paragraphs (3) and (4) of rule 5.1.3 of the Disclosure Guidance and Transparency Rules sourcebook in the case of a group of companies, holdings shall be aggregated at group level according to the principle laid down in ~~Article 10(e) of that Directive~~ paragraph (e) of rule 5.2.1 of the Disclosure Guidance and Transparency Rules sourcebook.

Article 4

Financial instruments referenced to a basket of shares or an index

1. Voting rights referred to in ~~Article 13(1a)(a) of Directive 2004/109/EC~~ rule 5.3.3A of the Disclosure Guidance and Transparency Rules sourcebook in the case of a financial instrument referenced to a basket of shares or an index shall be calculated on the basis

of the weight of the share in the basket of shares or index where any of the following conditions apply:

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Article 5

Financial instruments providing exclusively for a cash settlement

1. The number of voting rights referred to in ~~Article 13(1a)(b) of Directive 2004/109/EC~~ rule 5.3.3A of the Disclosure Guidance and Transparency Rules sourcebook relating to financial instruments which provide exclusively for a cash settlement, with a linear, symmetric pay-off profile with the underlying share shall be calculated on a delta-adjusted basis with cash position being equal to 1.

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6. The number of voting rights shall be calculated daily, taking into account the last closing price of the underlying share. The holder of the financial instrument shall notify the issuer when that holder reaches, exceeds or falls below the applicable thresholds provided for in ~~Article 9(1) of Directive 2004/109/EC~~ rule 5.1.2 of the Disclosure Guidance and Transparency Rules sourcebook.

Article 6

Client-serving transactions

The exemption referred to in ~~Article 9(6) of Directive 2004/109/EC~~ paragraph (4) of rule 5.1.3 of the Disclosure Guidance and Transparency Rules sourcebook shall apply to financial instruments held by a natural person or legal entity fulfilling orders received from clients, responding to a client's request to trade otherwise than on a proprietary basis, or hedging positions arising out of such dealings.

Article 7

Entry into force and application

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~~This Regulation shall be binding in its entirety and directly applicable in all Member States.~~

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