

Directive 2001/34/EC of the European Parliament and of the Council of 28
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DIRECTIVE 2001/34/EC OF THE EUROPEAN
 PARLIAMENT AND OF THE COUNCIL

of 28 May 2001

on the admission of securities to official stock exchange listing and on information to be published on those securities

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THE EUROPEAN PARLIAMENT AND THE COUNCIL OF THE EUROPEAN UNION,

Having regard to the Treaty establishing the European Economic Community, and in particular Articles 44 and 95 thereof,

Having regard to the proposal from the Commission,

Having regard to the Opinion of the Economic and Social Committee⁽¹⁾,

Acting in accordance with the procedure laid down in Article 251 of the Treaty⁽²⁾,

Whereas:

- (1) Council Directive 79/279/EEC of 5 March 1979 coordinating the conditions for the admission of securities to official stock exchange listing⁽³⁾, Council Directive 80/390/EEC of 17 March 1980 coordinating the requirements for the drawing up, scrutiny and distribution of the listing particulars to be published for the admission of securities to official stock exchange listing⁽⁴⁾, Council Directive 82/121/EEC of 15 February 1982 on information to be published on a regular basis by companies the shares of which have been admitted to official stock-exchange listing⁽⁵⁾ and Council Directive 88/627/EEC of 12 December 1988 on the information to be published when a major holding in a listed company is acquired or disposed of⁽⁶⁾ have been substantially amended several times. In the interests of clarity and rationality, the said Directives should therefore be codified by grouping them together in a single text.
- (2) The coordination of the conditions for the admission of securities to official listing on stock exchanges situated or operating in the Member States is likely to provide equivalent protection for investors at Community level, because of the more uniform guarantees offered to investors in the various Member States, it will facilitate both the admission to official stock exchange listing, in each such State, of securities from other Member States and the listing of any given security on a number of stock exchanges in the Community; it will accordingly make for greater interpenetration of national securities markets by removing those obstacles that may prudently be removed and therefore contribute to the prospect of establishing a European capital market.
- (3) Such coordination must therefore apply to securities, independently of the legal status of their issuers, and must therefore also apply to securities issued by non-member States or their regional or local authorities or international public bodies; this Directive therefore covers entities not covered by the second paragraph of Article 48 of the Treaty.
- (4) There should be the possibility of a right to apply to the courts against decisions by the competent national authorities in respect of the application of this Directive, concerning the admission of securities to official listing, although such right to apply must not be allowed to restrict the discretion of these authorities.

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- (5) Initially, this coordination of the conditions for admission of securities to official listing should be sufficiently flexible to enable account to be taken of present differences in the structures of securities markets in the Member States and to enable the Member States to take account of any specific situations with which they may be confronted.
- (6) For this reason, coordination should first be limited to the establishment of minimum conditions for the admission of securities to official listing on stock exchanges situated or operating in the Member States, without however giving issuers any right to listing.
- (7) This partial coordination of the conditions for admission to official listing constitutes a first step towards subsequent closer alignment of the rules of Member States in this field.
- (8) The market in which undertakings operate has been enlarged to embrace the whole Community and this enlargement involves a corresponding increase in their financial requirements and extension of the capital markets on which they must call to satisfy them; admission to official listing on stock exchanges of Member States of securities issued by undertakings constitutes an important means of access to these capital markets; furthermore exchange restrictions on the purchase of securities traded on the stock exchanges of another Member State have been eliminated as part of the liberalisation of capital movements.
- (9) Safeguards for the protection of the interests of actual and potential investors are required in most Member States of undertakings offering their securities to the public, either at the time of their offer or of their admission to official stock exchange listing; such safeguards require the provision of information which is sufficient and as objective as possible concerning the financial circumstances of the issuer and particulars of the securities for which admission to official listing is requested; the form under which this information is required usually consists of the publication of listing particulars.
- (10) The safeguards required differ from Member State to Member State, both as regards the contents and the layout of the listing particulars and the efficacy, methods and timing of the check on the information given therein; the effect of these differences is not only to make it more difficult for undertakings to obtain admission of securities to official listing on stock exchanges of several Member States but also to hinder the acquisition by investors residing in one Member State of securities listed on stock exchanges of other Member States and thus to inhibit the financing of the undertakings and investment throughout the Community.
- (11) These differences should be eliminated by coordinating the rules and regulations without necessarily making them completely uniform, in order to achieve an adequate degree of equivalence in the safeguards required in each Member State to ensure the provision of information which is sufficient and as objective as possible for actual or potential security holders.
- (12) Such coordination must apply to securities independently of the legal status of the issuing undertaking; this Directive applies to entities to which no reference is made in the second paragraph of Article 48 of the Treaty.

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- (13) Mutual recognition of listing particulars to be published for the admission of securities to official listing represents an important step forward in the creation of the Community's internal market.
- (14) In this connection, it is necessary to specify which authorities are competent to check and approve listing particulars to be published for the admission of securities to official listing in the event of simultaneous applications for admission to official listing in two or more Member States.
- (15) Article 21 of Council Directive 89/298/EEC of 17 April 1989 coordinating the requirements for the drawing-up, scrutiny and distribution of the prospectus to be published when transferable securities are offered to the public⁽⁷⁾ provides that where public offers are made simultaneously or within short intervals of one another in two or more Member States, a public-offer prospectus drawn up and approved in accordance with Article 7, 8 or 12 of that Directive must be recognised as a public-offer prospectus in the other Member States concerned on the basis of mutual recognition.
- (16) It is also desirable to provide the recognition of a public-offer prospectus as listing particulars where admission to official stock-exchange listing is requested within a short period of the public offer.
- (17) The mutual recognition of a public-offer prospectus and admission to official listings does not in itself confer a right to admissions.
- (18) It is advisable to provide for the extension, by means of agreements to be concluded by the Community with non-member countries, of the recognition of listing particulars for admission to official listings from those countries on a reciprocal basis.
- (19) It seems appropriate to provide for the possibility for the Member State in which admission to official listing is sought in certain cases to grant partial or complete exemption from the obligation to publish listing particulars for admission to official listings to issuers the securities of which have already been admitted to official stock-exchange listing in another Member State.
- (20) Companies which have already been listed in the Community for some time and are of high quality and international standing are the most likely candidates for cross-border listing. Those companies are generally well known in most Member States: information concerning them is widely circulated and available.
- (21) The aim of this Directive is to ensure that sufficient information is provided for investors; therefore, when such a company seeks to have its securities admitted to listing in a host Member State, investors operating on the market in that country may be sufficiently protected by receiving only simplified information rather than full listing particulars.
- (22) Member States may find it useful to establish non-discriminatory minimum quantitative criteria, such as the current equity market capitalisation, which issuers must fulfil to be eligible to benefit from the possibilities for exemption provided for in this Directive; given the increasing integration of securities markets, it should equally be open to the competent authorities to give smaller companies similar treatment.

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- (23) Furthermore, many stock exchanges have second-tier markets in order to deal in shares of companies not admitted to official listing; in some cases the second-tier markets are regulated and supervised by authorities recognised by public bodies that impose on companies disclosure requirements equivalent in substance to those imposed on officially listed companies; therefore, the principle underlying Article 23 of this Directive could also be applied when such companies seek to have their securities admitted to official listing.
- (24) In order to protect investors the documents intended to be made available to the public must first be sent to the competent authorities in the Member State in which admission to official listing is sought; it is for that Member State to decide whether those documents should be scrutinised by its competent authorities and to determine, if necessary, the nature and the manner in which that scrutiny should be carried out.
- (25) In the case of securities admitted to official stock-exchange listing, the protection of investors requires that the latter be supplied with appropriate regular information throughout the entire period during which the securities are listed; coordination of requirements for this regular information has similar objectives to those envisaged for the listing particulars, namely to improve such protection and to make it more equivalent, to facilitate the listing of these securities on more than one stock exchange in the Community, and in so doing to contribute towards the establishment of a genuine Community capital market by permitting a fuller interpenetration of securities markets.
- (26) Under this Directive, listed companies must as soon as possible make available to investors their annual accounts and report giving information on the company for the whole of the financial year; whereas the Fourth Council Directive 78/660/EEC⁽⁸⁾ has coordinated the laws, regulations and administrative provisions of the Member States concerning the annual accounts of certain types of companies.
- (27) Companies should also, at least once during each financial year, make available to investors reports on their activities; this Directive can, consequently, be confined to coordinating the content and distribution of a single report covering the first six months of the financial year.
- (28) However, in the case of ordinary debentures, because of the rights they confer on their holders, the protection of investors by means of the publication of a half-yearly report is not essential; by virtue of this Directive, convertible or exchangeable debentures and debentures with warrants may be admitted to official listing only if the related shares are already listed on the same stock exchange or on another regulated, regularly operating, recognised open market or are so admitted simultaneously; the Member States may derogate from this principle only if their competent authorities are satisfied that holders have at their disposal all the information necessary to form an opinion concerning the value of the shares to which these debentures relate; consequently, regular information needs to be coordinated only for companies whose shares are admitted to official stock-exchange listing.
- (29) The half-yearly report must enable investors to make an informed appraisal of the general development of the company's activities during the period covered by the report;

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however, this report need contain only the essential details on the financial position and general progress of the business of the company in question.

- (30) So as to ensure the effective protection of investors and the proper operation of stock exchanges, the rules relating to regular information to be published by companies, the shares of which are admitted to official stock-exchange listing within the Community, should apply not only to companies from Member States, but also to companies from non-member countries.
- (31) A policy of adequate information of investors in the field of transferable securities is likely to improve investor protection, to increase investors' confidence in securities markets and thus to ensure that securities markets function correctly.
- (32) By making such protection more equivalent, coordination of that policy at Community level is likely to make for greater inter-penetration of the Member States' transferable securities markets and therefore help to establish a true European capital market.
- (33) To that end investors should be informed of major holdings and of changes in those holdings in Community companies the shares of which are officially listed on stock exchanges situated or operating within the Community.
- (34) Coordinated rules should be laid down concerning the detailed content and the procedure for applying that requirement.
- (35) Companies, the shares of which are officially listed on a Community stock exchange, can inform the public of changes in major holdings only if they have been informed of such changes by the holders of those holdings.
- (36) Most Member States do not subject holders to such a requirement and where such a requirement exists there are appreciable differences in the procedures for applying it; coordinated rules should therefore be adopted at Community level in this field.
- (37) This Directive should not affect the obligations of the Member States concerning the deadlines for transposition set out in Annex II, Part B,

HAVE ADOPTED THIS DIRECTIVE:

Textual Amendments

- F1** Substituted by [Directive 2003/6/EC of the European Parliament and of the Council of 28 January 2003 on insider dealing and market manipulation \(market abuse\)](#).
- F2** Deleted by [Directive 2003/71/EC of the European Parliament and of the Council of 4 November 2003 on the prospectus to be published when securities are offered to the public or admitted to trading and amending Directive 2001/34/EC \(Text with EEA relevance\)](#).
- F3** Deleted by [Directive 2004/109/EC of the European Parliament and of the Council of 15 December 2004 on the harmonisation of transparency requirements in relation to information about issuers whose securities are admitted to trading on a regulated market and amending Directive 2001/34/EC](#).
- F4** Deleted by [Directive 2005/1/EC of the European Parliament and of the Council of 9 March 2005 amending Council Directives 73/239/EEC, 85/611/EEC, 91/675/EEC, 92/49/EEC and 93/6/EEC and Directives 94/19/EC, 98/78/EC, 2000/12/EC, 2001/34/EC, 2002/83/EC and 2002/87/EC in order to establish a new organisational structure for financial services committees \(Text with EEA relevance\)](#).

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- (1) [OJ C 116, 20.4.2001, p. 69.](#)
- (2) Opinion of the European Parliament of 14 March 2001 (not yet published in the Official Journal) and Council Decision of 7 May 2001.
- (3) [OJ L 66, 16.3.1979, p. 21.](#) Directive as last amended by Directive 88/627/EEC ([OJ L 348, 17.12.1988, p. 62.](#))
- (4) [OJ L 100, 17.4.1980, p. 1.](#) Directive as last amended by European Parliament and Council Directive 94/18/EC ([OJ L 135, 31.5.1994, p. 1.](#))
- (5) [OJ L 48, 20.2.1982, p. 26.](#)
- (6) [OJ L 348, 17.12.1988, p. 62.](#)
- (7) [OJ L 124, 5.5.1989, p. 8.](#)
- (8) [OJ L 222, 14.8.1978, p. 11.](#) Directive as last amended by Directive 1999/60/EC ([OJ L 162, 26.6.1999, p. 65.](#))