

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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### TITLE III

#### **PARTICULAR CONDITIONS RELATING TO OFFICIAL LISTINGS OF SECURITIES**

#### CHAPTER II

#### **Specific conditions for the admission of shares**

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#### **Conditions relating to companies for the shares of which admission to official listing is sought**

#### *Article 42*

The legal position of the company must be in conformity with the laws and Regulations to which it is subject, as regards both its formation and its operation under its statutes.

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### *Article 43*

1 The foreseeable market capitalisation of the shares for which admission to official listing is sought or, if this cannot be assessed, the company's capital and reserves, including profit or loss, from the last financial year, must be at least one million euro.

2 Member States may provide for admission to official listing, even when this condition is not fulfilled, provided that the competent authorities are satisfied that there will be an adequate market for the shares concerned.

3 A higher foreseeable market capitalisation or higher capital and reserves may be required by a Member State for admission to official listing only if another regulated, regularly operating, recognised open market exists in that State and the requirements for it are equal to or less than those referred to in paragraph 1.

4 The condition set out in paragraph 1 shall not be applicable for the admission to official listing of a further block of shares of the same class as those already admitted.

5 The equivalent in national currency of one million euro shall initially be the equivalent in national currency of one million European units of account that were applicable on 5 March 1979.

6 If, as a result of adjustment of the equivalent of the euro in national currency, the market capitalisation expressed in national currency remains for a period of one year at least 10 % more or less than the value of one million euro the Member state must, within the 12 months following the expiry of that period, adjust its laws, regulations or administrative provisions to comply with paragraph 1.

### *Article 44*

A company must have published or filed its annual accounts in accordance with national law for the three financial years preceding the application for official listing. By way of exception, the competent authorities may derogate from this condition where such derogation is desirable in the interests of the company or of investors and where the competent authorities are satisfied that investors have the necessary information available to be able to arrive at an informed judgement on the company and the shares for which admission to official listing is sought.

## Section 2

### **Conditions relating to the shares for which admission is sought**

#### *Article 45*

The legal position of the shares must be in conformity with the laws and regulations to which they are subject.

#### *Article 46*

1 The shares must be freely negotiable.

2 The competent authorities may treat shares which are not fully paid up as freely negotiable, if arrangements have been made to ensure that the negotiability of such shares is not restricted and that dealing is made open and proper by providing the public with all appropriate information.

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3 The competent authorities may, in the case of the admission to official listing of shares which may be acquired only subject to approval, derogate from paragraph 1 only if the use of the approval clause does not disturb the market.

*Article 47*

Where public issue precedes admission to official listing, the first listing may be made only after the end of the period during which subscription applications may be submitted.

*Article 48*

1 A sufficient number of shares must be distributed to the public in one or more Member States not later than the time of admission.

2 The condition set out in paragraph 1 shall not apply where shares are to be distributed to the public through the stock exchange. In that event, admission to official listing may be granted only if the competent authorities are satisfied that a sufficient number of shares will be distributed through the stock exchange within a short period.

3 Where admission to official listing is sought for a further block of shares of the same class, the competent authorities may assess whether a sufficient number of shares has been distributed to the public in relation to all the shares issued and not only in relation to this further block.

4 By way of derogation from paragraph 1, if the shares are admitted to official listing in one or more non-member countries, the competent authorities may provide for their admission to official listing if a sufficient number of shares is distributed to the public in the non-Member State or States where they are listed.

5 A sufficient number of shares shall be deemed to have been distributed either when the shares in respect of which application for admission has been made are in the hands of the public to the extent of a least 25 % of the subscribed capital represented by the class of shares concerned or when, in view of the large number of shares of the same class and the extent of their distribution to the public, the market will operate properly with a lower percentage.

*Article 49*

1 The application for admission to official listing must cover all the shares of the same class already issued.

2 Member States may provide that this condition shall not apply to applications for admission not covering all the shares of the same class already issued where the shares of that class for which admission is not sought belong to blocks serving to maintain control of the company or are not negotiable for a certain time under agreements, provided that the public is informed of such situations and that there is no danger of such situations prejudicing the interests of the holders of the shares for which admission to official listing is sought.

*Article 50*

1 For the admission to official listing of shares issued by companies which are nationals of another Member State and which shares have a physical form it is necessary and sufficient that their physical form comply with the standards laid down in that other Member State. Where the physical form does not conform to the standards in force in the Member State in which admission to official listing is applied for, the competent authorities of that state shall make that fact known to the public.

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2 The physical form of shares issued by companies which are nationals of a non-member country must afford sufficient safeguard for the protection of the investors.

*Article 51*

If the shares issued by a company which is a national of a non-member country are not listed in either the country of origin or in the country in which the major proportion of the shares is held, they may not be admitted to official listing unless the competent authorities are satisfied that the absence of a listing in the country of origin or in the country in which the major proportion is held is not due to the need to protect investors.