

Commission regulation (EC) No 809/2004 of 29 April 2004 implementing Directive 2003/71/EC of the European Parliament and of the Council as regards information contained in prospectuses as well as the format, incorporation by reference and publication of such prospectuses and dissemination of advertisements (Text with EEA relevance) (repealed)

[^{X1}CHAPTER I

SUBJECT MATTER AND DEFINITIONS

Article 1

Subject matter

This Regulation lays down:

1. the format of prospectus referred to in Article 5 of Directive 2003/71/EC;
2. the minimum information requirements to be included in a prospectus provided for in Article 7 of Directive 2003/71/EC;
3. [^{F1}]
4. the modalities according to which information can be incorporated by reference in a prospectus provided for in Article 11 of Directive 2003/71/EC;
5. the publication methods of a prospectus in order to ensure that a prospectus is publicly available according to Article 14 of Directive 2003/71/EC;
6. the methods of dissemination of advertisements referred to in Article 15 of Directive 2003/71/EC.

Textual Amendments

- F1** Deleted by [Commission Delegated Regulation \(EU\) No 486/2012 of 30 March 2012 amending Regulation \(EC\) No 809/2004 as regards the format and the content of the prospectus, the base prospectus, the summary and the final terms and as regards the disclosure requirements \(Text with EEA relevance\)](#).

Article 2

Definitions

For the purposes of this Regulation, the following definitions shall apply in addition to those laid down in Directive 2003/71/EC:

1. 'schedule' means a list of minimum information requirements adapted to the particular nature of the different types of issuers and/or the different securities involved;
2. 'building block' means a list of additional information requirements, not included in one of the schedules, to be added to one or more schedules, as the case may be,

Status: Point in time view as at 22/09/2012.

*Changes to legislation: There are currently no known outstanding effects for the
Commission regulation (EC) No 809/2004 (repealed). (See end of Document for details)*

- depending on the type of instrument and/or transaction for which a prospectus or base prospectus is drawn up;
3. 'risk factors' means a list of risks which are specific to the situation of the issuer and/or the securities and which are material for taking investment decisions;
 4. 'special purpose vehicle' means an issuer whose objects and purposes are primarily the issue of securities;
 5. 'asset backed securities' means securities which:
 - (a) represent an interest in assets, including any rights intended to assure servicing, or the receipt or timeliness of receipts by holders of assets of amounts payable there under;
 - or
 - (b) are secured by assets and the terms of which provide for payments which relate to payments or reasonable projections of payments calculated by reference to identified or identifiable assets;
 6. 'umbrella collective investment undertaking' means a collective investment undertaking invested in one or more collective investment undertakings, the asset of which is composed of separate class(es) or designation(s) of securities;
 7. 'property collective investment undertaking' means a collective investment undertaking whose investment objective is the participation in the holding of property in the long term;
 8. 'public international body' means a legal entity of public nature established by an international treaty between sovereign States and of which one or more Member States are members;
 9. 'advertisement' means announcements:
 - (a) relating to an specific offer to the public of securities or to an admission to trading on a regulated market;
 - and
 - (b) aiming to specifically promote the potential subscription or acquisition of securities;
 10. 'profit forecast' means a form of words which expressly states or by implication indicates a figure or a minimum or maximum figure for the likely level of profits or losses for the current financial period and/or financial periods subsequent to that period, or contains data from which a calculation of such a figure for future profits or losses may be made, even if no particular figure is mentioned and the word 'profit' is not used;
 11. 'profit estimate' means a profit forecast for a financial period which has expired and for which results have not yet been published;
 12. 'regulated information' means all information which the issuer, or any person who has applied for the admission of securities to trading on a regulated market without the issuer's consent, is required to disclose under Directive 2001/34/EC or under Article 6 of Directive 2003/6/EC of the European Parliament and of the Council⁽¹⁾[F2;]

13. [F3‘Rights issue’, means any issue of statutory pre-emption rights which allow for the subscription of new shares and is addressed only to existing shareholders. Rights issue also includes an issue where such statutory pre-emption rights are disabled and replaced by an instrument or a provision conferring near identical rights to existing shareholders when those rights meet the following conditions:
- (a) shareholders are offered the rights free of charge;
 - (b) shareholders are entitled to take up new shares in proportion to their existing holdings, or, in the case of other securities giving a right to participate in the share issue, in proportion to their entitlements to the underlying shares;
 - (c) the rights to subscribe are negotiable and transferable or, if not, the shares arising from the rights are sold at the end of the offer period for the benefit of those shareholders who did not take up those entitlements;
 - (d) the issuer is able, as regards the entitlements referred to in point (b), to impose limits or restrictions or exclusions and make arrangements it considers appropriate to deal with treasury shares, fractional entitlements and requirements laid down by law or by a regulatory authority in any country or territory;
 - (e) the minimum period during which shares may be taken up is the same as the period for the exercise of statutory pre-emption rights laid down in Article 29(3) of Council Directive 77/91/EEC⁽²⁾;
 - (f) the rights lapse at the expiration of the exercise period.]

Textual Amendments

- F2** Substituted by [Commission Delegated Regulation \(EU\) No 486/2012 of 30 March 2012 amending Regulation \(EC\) No 809/2004 as regards the format and the content of the prospectus, the base prospectus, the summary and the final terms and as regards the disclosure requirements \(Text with EEA relevance\)](#).
- F3** Inserted by [Commission Delegated Regulation \(EU\) No 486/2012 of 30 March 2012 amending Regulation \(EC\) No 809/2004 as regards the format and the content of the prospectus, the base prospectus, the summary and the final terms and as regards the disclosure requirements \(Text with EEA relevance\)](#).

[F3 Article 2a

Categories of information in the base prospectus and the final terms

1 The categories set out in Annex XX shall determine the degree of flexibility by which the information can be given in the base prospectus or the final terms. The categories shall be defined as follows:

- a ‘Category A’ means the relevant information which shall be included in the base prospectus. This information cannot be left in blank for later insertion in the final terms;
- b ‘Category B’ means that the base prospectus shall include all the general principles related to the information required, and only the details which are unknown at the time of the approval of the base prospectus can be left in blank for later insertion in the final terms;

Status: Point in time view as at 22/09/2012.

*Changes to legislation: There are currently no known outstanding effects for the
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- c ‘Category C’ means that the base prospectus may contain a reserved space for later insertion for the information which was not known at the time of the approval of the base prospectus. Such information shall be inserted in the final terms.

2 Where the conditions of Article 16(1) of Directive 2003/71/EC apply, a supplement shall be required.

Where those conditions do not apply, the issuer, the offeror or the person asking for admission to trading on a regulated market shall publish a notice of the change.]

Textual Amendments

- F3** Inserted by [Commission Delegated Regulation \(EU\) No 486/2012 of 30 March 2012 amending Regulation \(EC\) No 809/2004 as regards the format and the content of the prospectus, the base prospectus, the summary and the final terms and as regards the disclosure requirements \(Text with EEA relevance\).](#)

Editorial Information

- X1** Substituted by [Corrigendum to Commission Regulation \(EC\) No 809/2004 of 29 April 2004 implementing Directive 2003/71/EC of the European Parliament and of the Council as regards information contained in prospectuses as well as the format, incorporation by reference and publication of such prospectuses and dissemination of advertisements \(Official Journal of the European Union L 149 of 30 April 2004\).](#)

CHAPTER II

MINIMUM INFORMATION

^{F2}Article 3

Minimum information to be included in a prospectus

A prospectus shall be drawn up by using one or a combination of the schedules and building blocks set out in this Regulation.

^{F4}A prospectus shall contain the information items required in Annexes I to XVII and Annexes XX to XXX depending on the type of issuer or issues and securities involved. Subject to Article 4a(1), a competent authority shall not require that a prospectus contains information items which are not included in Annexes I to XVII or Annexes XX to XXX.]

In order to ensure conformity with the obligation referred to in Article 5(1) of Directive 2003/71/EC, the competent authority of the home Member State, when approving a prospectus in accordance with Article 13 of that Directive, may, on a case-by-case basis, require the information provided by the issuer, the offeror or the person asking for admission to trading on a regulated market to be completed, for each of the information items.

Where the issuer, the offeror or the person asking for the admission to trading on a regulated market is required to include a summary in a prospectus, in accordance with

Status: Point in time view as at 22/09/2012.

Changes to legislation: There are currently no known outstanding effects for the Commission regulation (EC) No 809/2004 (repealed). (See end of Document for details)

Article 5(2) of Directive 2003/71/EC, the competent authority of the home Member State, when approving the prospectus in accordance with Article 13 of that Directive, may, on a case-by-case basis, require certain information provided in the prospectus, to be included in the summary.]

Textual Amendments

- F2** Substituted by [Commission Delegated Regulation \(EU\) No 486/2012 of 30 March 2012 amending Regulation \(EC\) No 809/2004 as regards the format and the content of the prospectus, the base prospectus, the summary and the final terms and as regards the disclosure requirements \(Text with EEA relevance\).](#)
- F4** Substituted by [Commission Delegated Regulation \(EU\) No 862/2012 of 4 June 2012 amending Regulation \(EC\) No 809/2004 as regards information on the consent to use of the prospectus, information on underlying indexes and the requirement for a report prepared by independent accountants or auditors \(Text with EEA relevance\).](#)

Article 4

Share registration document schedule

- 1 For the share registration document information shall be given in accordance with the schedule set out in Annex I.
- 2 The schedule set out in paragraph 1 shall apply to the following:
 1. shares and other transferable securities equivalent to shares;
 2. other securities which comply with the following conditions:
 - (a) they can be converted or exchanged into shares or other transferable securities equivalent to shares, at the issuer's or at the investor's discretion, or on the basis of the conditions established at the moment of the issue, or give, in any other way, the possibility to acquire shares or other transferable securities equivalent to shares;
 - and
 - (b) provided that these shares or other transferable securities equivalent to shares are or will be issued by the issuer of the security and are not yet traded on a regulated market or an equivalent market outside the Community at the time of the approval of the prospectus covering the securities, and that the underlying shares or other transferable securities equivalent to shares can be delivered with physical settlement.

[^{F5} Article 4a

Share registration document schedule in cases of complex financial history or significant financial commitment

- 1 Where the issuer of a security covered by Article 4(2) has a complex financial history, or has made a significant financial commitment, and in consequence the inclusion in the registration document of certain items of financial information relating to an entity other than the issuer is necessary in order to satisfy the obligation laid down in Article 5(1) of Directive

Status: Point in time view as at 22/09/2012.

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2003/71/EC, those items of financial information shall be deemed to relate to the issuer. The competent authority of the home Member State shall in such cases request that the issuer, the offeror or the person asking for admission to trading include those items of information in the registration document.

Those items of financial information may include pro forma information prepared in accordance with Annex II. In this context, where the issuer has made a significant financial commitment any such pro forma information shall illustrate the anticipated effects of the transaction that the issuer has agreed to undertake, and references in Annex II to 'the transaction' shall be read accordingly.

2 [F²The competent authority shall base any request pursuant to the first subparagraph of paragraph 1 on the requirements set out in item 20.1 of Annex I, item 15.1 of Annex XXIII, item 20.1 of Annex XXV, item 11.1 of Annex XXVII and item 20.1 of Annex XXVIII as regards the content of financial information and the applicable accounting and auditing principles, subject to any modification which is appropriate in view of any of the following factors:]

- a the nature of the securities;
- b the nature and range of information already included in the prospectus, and the existence of financial information relating to an entity other than the issuer in a form that might be included in a prospectus without modification;
- c the facts of the case, including the economic substance of the transactions by which the issuer has acquired or disposed of its business undertaking or any part of it, and the specific nature of that undertaking;
- d the ability of the issuer to obtain financial information relating to another entity with reasonable effort.

Where, in the individual case, the obligation laid down in Article 5(1) of Directive 2003/71/EC may be satisfied in more than one way, preference shall be given to the way that is the least costly or onerous.

3 Paragraph 1 is without prejudice to the responsibility under national law of any other person, including the persons referred to in Article 6(1) of Directive 2003/71/EC, for the information contained in the prospectus. In particular, those persons shall be responsible for the inclusion in the registration document of any items of information requested by the competent authority pursuant to paragraph 1.

4 For the purposes of paragraph 1, an issuer shall be treated as having a complex financial history if all of the following conditions apply:

- [F²a its entire business undertaking at the time that the prospectus is drawn up is not accurately represented in the historical financial information which it is required to provide under item 20.1 of Annex I, item 15.1 of Annex XXIII, item 20.1 of Annex XXV, item 11.1 of Annex XXVII and item 20.1 of Annex XXVIII;]
- b that inaccuracy will affect the ability of an investor to make an informed assessment as mentioned in Article 5(1) of Directive 2003/71/EC; and
- c information relating to its business undertaking that is necessary for an investor to make such an assessment is included in financial information relating to another entity.

5 For the purposes of paragraph 1, an issuer shall be treated as having made a significant financial commitment if it has entered into a binding agreement to undertake a transaction which, on completion, is likely to give rise to a significant gross change.

In this context, the fact that an agreement makes completion of the transaction subject to conditions, including approval by a regulatory authority, shall not prevent that

agreement from being treated as binding if it is reasonably certain that those conditions will be fulfilled.

In particular, an agreement shall be treated as binding where it makes the completion of the transaction conditional on the outcome of the offer of the securities that are the subject matter of the prospectus or, in the case of a proposed takeover, if the offer of securities that are the subject matter of the prospectus has the objective of funding that takeover.

[^{F26} For the purposes of paragraph 5 of this Article, and of item 20.2 of Annex I, item 15.2 of Annex XXIII and item 20.2 of Annex XXV, a significant gross change means a variation of more than 25 %, relative to one or more indicators of the size of the issuer's business, in the situation of an issuer.]]

Textual Amendments

- F2** Substituted by Commission Delegated Regulation (EU) No 486/2012 of 30 March 2012 amending Regulation (EC) No 809/2004 as regards the format and the content of the prospectus, the base prospectus, the summary and the final terms and as regards the disclosure requirements (Text with EEA relevance).
- F5** Inserted by Commission Regulation (EC) No 211/2007 of 27 February 2007 amending Regulation (EC) No 809/2004 implementing Directive 2003/71/EC of the European Parliament and of the Council as regards financial information in prospectuses where the issuer has a complex financial history or has made a significant financial commitment (Text with EEA relevance).

Article 5

Pro forma financial information building block

For pro forma financial information, information shall be given in accordance with the building block set out in Annex II.

Pro forma financial information should be preceded by an introductory explanatory paragraph that states in clear terms the purpose of including this information in the prospectus.

Article 6

Share securities note schedule

1 For the share securities note information is necessary to be given in accordance with the schedule set out in Annex III.

2 The schedule shall apply to shares and other transferable securities equivalent to shares.

Status: Point in time view as at 22/09/2012.

*Changes to legislation: There are currently no known outstanding effects for the
Commission regulation (EC) No 809/2004 (repealed). (See end of Document for details)*

Article 7

Debt and derivative securities registration document schedule for securities with a denomination per unit of less than EUR [F2100 000]

For the debt and derivative securities registration document concerning securities which are not covered in Article 4 with a denomination per unit of less than EUR [F2100 000] or, where there is no individual denomination, securities that can only be acquired on issue for less than EUR [F2100 000] per security, information shall be given in accordance with the schedule set out in Annex IV.

Textual Amendments

- F2** Substituted by [Commission Delegated Regulation \(EU\) No 486/2012 of 30 March 2012 amending Regulation \(EC\) No 809/2004 as regards the format and the content of the prospectus, the base prospectus, the summary and the final terms and as regards the disclosure requirements \(Text with EEA relevance\)](#).

Article 8

Securities note schedule for debt securities with a denomination per unit of less than EUR [F2100 000]

1 For the securities note for debt securities with a denomination per unit of less than EUR [F2100 000] information shall be given in accordance with the schedule set out in Annex V.

2 The schedule shall apply to debt where the issuer has an obligation arising on issue to pay the investor 100 % of the nominal value in addition to which there may be also an interest payment.

Textual Amendments

- F2** Substituted by [Commission Delegated Regulation \(EU\) No 486/2012 of 30 March 2012 amending Regulation \(EC\) No 809/2004 as regards the format and the content of the prospectus, the base prospectus, the summary and the final terms and as regards the disclosure requirements \(Text with EEA relevance\)](#).

Article 9

Guarantees building block

For guarantees information shall be given in accordance with the building block set out in Annex VI.

[F3Item 3 of Annex VI shall not apply where a Member State acts as guarantor.]

Status: Point in time view as at 22/09/2012.

Changes to legislation: There are currently no known outstanding effects for the Commission regulation (EC) No 809/2004 (repealed). (See end of Document for details)

Textual Amendments

- F3** Inserted by [Commission Delegated Regulation \(EU\) No 486/2012 of 30 March 2012 amending Regulation \(EC\) No 809/2004 as regards the format and the content of the prospectus, the base prospectus, the summary and the final terms and as regards the disclosure requirements \(Text with EEA relevance\)](#).

Article 10

Asset backed securities registration document schedule

For the asset backed securities registration document information shall be given in accordance with the schedule set out in Annex VII.

Article 11

Asset backed securities building block

For the additional information building block to the securities note for asset backed securities information shall be given in accordance with the building block set out in Annex VIII.

Article 12

Debt and derivative securities registration document schedule for securities with a denomination per unit of at least EUR [F²100 000]

For the debt and derivative securities registration document concerning securities which are not covered in Article 4 with a denomination per unit of at least EUR [F²100 000] or, where there is no individual denomination, securities that can only be acquired on issue for at least EUR [F²100 000] per security, information shall be given in accordance with the schedule set out in Annex IX.

Textual Amendments

- F2** Substituted by [Commission Delegated Regulation \(EU\) No 486/2012 of 30 March 2012 amending Regulation \(EC\) No 809/2004 as regards the format and the content of the prospectus, the base prospectus, the summary and the final terms and as regards the disclosure requirements \(Text with EEA relevance\)](#).

Article 13

Depository receipts schedule

For depository receipts issued over shares information shall be given in accordance with the schedule set out in Annex X.

Status: Point in time view as at 22/09/2012.

*Changes to legislation: There are currently no known outstanding effects for the
Commission regulation (EC) No 809/2004 (repealed). (See end of Document for details)*

Article 14

Banks registration document schedule

1 For the banks registration document for debt and derivative securities and those securities which are not covered by Article 4 information shall be given in accordance with the schedule set out in Annex XI.

2 The schedule set out in paragraph 1 shall apply to credit institutions as defined in point (a) of Article 1(1) of Directive 2000/12/EC as well as to third country credit institutions which do not fall under that definition but have their registered office in a state which is a member of the OECD.

These entities may also use alternatively the registration document schedules provided for under in Articles 7 and 12.

Article 15

Securities note schedule for derivative securities

1 For the securities note for derivative securities information shall be given in accordance with the schedule set out in Annex XII.

2 The schedule shall apply to securities which are not in the scope of application of the other securities note schedules referred to in Articles 6, 8 and 16, including certain securities where the payment and/or delivery obligations are linked to an underlying.

Article 16

Securities note schedule for debt securities with a denomination per unit of at least EUR [^{F2}100 000]

1 For the securities note for debt securities with a denomination per unit of at least EUR [^{F2}100 000] information shall be given in accordance with the schedule set out in Annex XIII.

2 The schedule shall apply to debt where the issuer has an obligation arising on issue to pay the investor 100 % of the nominal value in addition to which there may be also an interest payment.

Textual Amendments

- F2** Substituted by [Commission Delegated Regulation \(EU\) No 486/2012 of 30 March 2012 amending Regulation \(EC\) No 809/2004 as regards the format and the content of the prospectus, the base prospectus, the summary and the final terms and as regards the disclosure requirements \(Text with EEA relevance\).](#)

Status: Point in time view as at 22/09/2012.

Changes to legislation: There are currently no known outstanding effects for the Commission regulation (EC) No 809/2004 (repealed). (See end of Document for details)

Article 17

Additional information building block on the underlying share

1 For the additional information on the underlying share, the description of the underlying share shall be given in accordance with the building block set out in Annex XIV.

In addition, if the issuer of the underlying share is an entity belonging to the same group, the information required by the schedule referred to in Article 4 shall be given in respect of that issuer.

2 The additional information referred to in the first subparagraph of paragraph 1 shall only apply to those securities which comply with both of the following conditions:

1. they can be converted or exchanged into shares or other transferable securities equivalent to shares, at the issuer's or at the investor's discretion, or on the basis of the conditions established at the moment of the issue or give, in any other way, the possibility to acquire shares or other transferable securities equivalent to shares;
and
2. provided that these shares or other transferable securities equivalent to shares are or will be issued by the issuer of the security or by an entity belonging to the group of that issuer and are not yet traded on a regulated market or an equivalent market outside the Community at the time of the approval of the prospectus covering the securities, and that the underlying shares or other transferable securities equivalent to shares can be delivered with physical settlement.

Article 18

Registration document schedule for collective investment undertakings of the closed-end type

1 In addition to the information required pursuant to items 1, 2, 3, 4, 5.1, 7, 9.1, 9.2.1, 9.2.3, 10.4, 13, 14, 15, 16, 17.2, 18, 19, 20, 21, 22, 23, 24, 25 of Annex I, for the registration document for securities issued by collective investment undertakings of the closed-end type information shall be given in accordance with the schedule set out in Annex XV.

2 The schedule shall apply to collective investment undertakings of the closed-end type holding a portfolio of assets on behalf of investors that:

1. are recognised by national law in the Member State in which it is incorporated as a collective investment undertaking of the closed end type;
or
2. do not take or seek to take legal or management control of any of the issuers of its underlying investments. In such a case, legal control and/or participation in the administrative, management or supervisory bodies of the underlying issuer(s) may be taken where such action is incidental to the primary investment objective, necessary for the protection of shareholders and only in circumstances where the collective investment undertaking will not exercise significant management control over the operations of that underlying issuer(s).

Status: Point in time view as at 22/09/2012.

*Changes to legislation: There are currently no known outstanding effects for the
Commission regulation (EC) No 809/2004 (repealed). (See end of Document for details)*

Article 19

Registration document schedule for Member States, third countries and their regional and local authorities

1 For the registration document for securities issued by Member States, third countries and their regional and local authorities information shall be given in accordance with the schedule set out in Annex XVI.

2 The schedule shall apply to all types of securities issued by Member States, third countries and their regional and local authorities.

Article 20

Registration document schedule for public international bodies and for issuers of debt securities guaranteed by a member state of the OECD

1 For the registration document for securities issued by public international bodies and for securities unconditionally and irrevocably guaranteed, on the basis of national legislation, by a state which is member of the OECD information shall be given in accordance with the schedule set out in Annex XVII.

2 The schedule shall apply to:

- all types of securities issued by public international bodies,
- to debt securities unconditionally and irrevocably guaranteed, on the basis of national legislation, by a state which is member of the OECD.

^{F6}Article 20a

Additional information building block for consent given in accordance with Article 3(2) of Directive 2003/71/EC

1 For the purposes of the third subparagraph of Article 3(2) of Directive 2003/71/EC, the prospectus shall contain the following:

- a the additional information set out in Sections 1 and 2A of Annex XXX where the consent is given to one or more specified financial intermediaries;
- b the additional information set out in Sections 1 and 2B of Annex XXX where the issuer or the person responsible for drawing up the prospectus chooses to give its consent to all financial intermediaries.

2 Where a financial intermediary does not comply with the conditions attached to consent as disclosed in the prospectus, a new prospectus shall be required in accordance with the second paragraph of Article 3(2) of Directive 2003/71/EC.]

Textual Amendments

- F6** Inserted by [Commission Delegated Regulation \(EU\) No 862/2012 of 4 June 2012 amending Regulation \(EC\) No 809/2004 as regards information on the consent to use of the prospectus, information on underlying indexes and the requirement for a report prepared by independent accountants or auditors \(Text with EEA relevance\).](#)

Status: Point in time view as at 22/09/2012.

Changes to legislation: There are currently no known outstanding effects for the Commission regulation (EC) No 809/2004 (repealed). (See end of Document for details)

Article 21

Combination of schedules and building blocks

1 The use of the combinations provided for in the table set out in Annex XVIII shall be mandatory when drawing up prospectuses for the types of securities to which those combinations correspond according to this table.

However, for securities not covered by those combinations further combinations may be used.

2 The most comprehensive and stringent registration document schedule, i.e. the most demanding schedule in term of number of information items and the extent of the information included in them, may always be used to issue securities for which a less comprehensive and stringent registration document schedule is provided for, according to the following ranking of schedules:

1. share registration document schedule;
2. debt and derivative securities registration document schedule for securities with a denomination per unit of less than EUR [^{F2}100 000];
3. debt and derivative securities registration document schedule for securities with a denomination per unit at least EUR [^{F2}100 000].

[^{F3} The issuer, the offeror and the person asking for admission to trading on a regulated market may choose to draw up a prospectus in accordance with the proportionate schedules set out in Annexes XXIII to XXIX instead of the schedules set out in Annexes I, III, IV, IX, X and XI as described in the second subparagraph provided that the respective conditions laid down in Articles 26a, 26b and 26c are fulfilled.

Where the issuer, the offeror and the person asking for admission to trading on a regulated market makes that choice:

- a the reference to Annex I in Annex XVIII shall be read as a reference to Annex XXIII or XXV;
- b the reference to Annex III in Annex XVIII shall be read as a reference to Annex XXIV;
- c the reference to Annex IV in Annex XVIII shall be read as a reference to Annex XXVI;
- d the reference to Annex IX in Annex XVIII shall be read as a reference to Annex XXVII;
- e the reference to Annex X in Annex XVIII shall be read as a reference to Annex XXVIII;
- f the reference to Annex XI in Annex XVIII shall be read as a reference to Annex XXIX.]

Textual Amendments

- F2** Substituted by Commission Delegated Regulation (EU) No 486/2012 of 30 March 2012 amending Regulation (EC) No 809/2004 as regards the format and the content of the prospectus, the base prospectus, the summary and the final terms and as regards the disclosure requirements (Text with EEA relevance).
- F3** Inserted by Commission Delegated Regulation (EU) No 486/2012 of 30 March 2012 amending Regulation (EC) No 809/2004 as regards the format and the content of the prospectus, the base prospectus, the summary and the final terms and as regards the disclosure requirements (Text with EEA relevance).

Status: Point in time view as at 22/09/2012.

*Changes to legislation: There are currently no known outstanding effects for the
Commission regulation (EC) No 809/2004 (repealed). (See end of Document for details)*

Article 22

Minimum information to be included in a base prospectus and its related final terms

[^{F21} A base prospectus shall be drawn up using one or a combination of schedules and building blocks provided for in this Regulation according to the combinations for various types of securities set out in Annex XVIII.

[^{F4} A base prospectus shall contain the information items required in Annexes I to XVII, Annex XX and Annexes XXIII to XXX depending on the type of issuer and securities involved. Competent authorities shall not require that a base prospectus contains information items which are not included in Annexes I to XVII, Annex XX or Annexes XXIII to XXX.]

In order to ensure conformity with the obligation referred to in Article 5(1) of Directive 2003/71/EC, the competent authority of the home Member State, when approving a base prospectus in accordance with Article 13 of that Directive, may, on a case-by-case basis, require the information provided by the issuer, the offeror or the person asking for admission to trading on a regulated market to be completed for each of the information items.

Where the issuer, the offeror or the person asking for the admission to trading on a regulated market is required to include a summary in a base prospectus, in accordance with Article 5(2) of Directive 2003/71/EC, the competent authority of the home Member State, when approving the base prospectus in accordance with Article 13 of that Directive, may, on a case-by-case basis, require certain information provided in the base prospectus to be included in the summary.]

[^{F31a} The base prospectus may contain options with regard to information categorised as Category A, Category B and Category C, required by the relevant securities note schedules and building blocks, and set out in Annex XX. The final terms shall determine which of these options is applicable to the individual issue, by referring to the relevant sections of the base prospectus or by replicating such information.]

2 The issuer, the offeror or the person asking for admission to trading on a regulated market may omit information items which are not known when the base prospectus is approved and which can only be determined at the time of the individual issue.

3 The use of the combinations provided for in the table in Annex XVIII shall be mandatory when drawing up base prospectuses for the types of securities to which those combinations correspond according to this table.

However, for securities not covered by those combinations further combinations may be used.

[^{F24} The final terms attached to a base prospectus shall only contain the following:

- a within the various securities notes schedules according to which the base prospectus is drawn up, the information items in Categories B and C listed in Annex XX. When an item is not applicable to a prospectus, the item shall appear in the final terms with the mention ‘not applicable’;
- b on a voluntary basis, any ‘additional information’ set out in Annex XXI;
- c any replication of, or reference to, options already provided for in the base prospectus which are applicable to the individual issue.

The final terms shall not amend or replace any information in the base prospectus.]

5 In addition to the information items set out in the schedules and building blocks referred to in Articles 4 to 20 the following information shall be included in a base prospectus:

1. indication on the information that will be included in the final terms;
- 1a. [^{F3}a section containing a template, the ‘form of the final terms’, which has to be filled out for each individual issue;]
2. the method of publication of the final terms; if the issuer is not in a position to determine, at the time of the approval of the prospectus, the method of publication of the final terms, an indication of how the public will be informed about which method will be used for the publication of the final terms;
3. in the case of issues of non equity securities according to point (a) of Article 5(4) of Directive 2003/71/EC, a general description of the programme.

6 Only the following categories of securities may be contained in a base prospectus and its related final terms covering issues of various types of securities:

1. asset backed securities;
2. warrants falling under Article 17;
3. non-equity securities provided for under point (b) of Article 5(4) of Directive 2003/71/EC;
4. all other non-equity securities including warrants with the exception of those mentioned in (2).

In drawing up a base prospectus the issuer, the offeror or the person asking for admission to trading on a regulated market shall clearly segregate the specific information on each of the different securities included in these categories.

7 Where an event envisaged under Article 16(1) of Directive 2003/71/EC occurs between the time that the base prospectus has been approved and the final closing of the offer of each issue of securities under the base prospectus or, as the case may be, the time that trading on a regulated market of those securities begins, the issuer, the offeror or the person asking for admission to trading on a regulated market shall publish a supplement prior to the final closing of the offer or the admission of those securities to trading.

[^{F3}Where the issuer needs to prepare a supplement concerning information in the base prospectus that relates to only one or several specific issues, the right of investors to withdraw their acceptances pursuant to Article 16(2) of Directive 2003/71/EC shall only apply to the relevant issues and not to any other issues of securities under the base prospectus.]

Textual Amendments

- F2** Substituted by [Commission Delegated Regulation \(EU\) No 486/2012 of 30 March 2012 amending Regulation \(EC\) No 809/2004 as regards the format and the content of the prospectus, the base prospectus, the summary and the final terms and as regards the disclosure requirements \(Text with EEA relevance\)](#).
- F3** Inserted by [Commission Delegated Regulation \(EU\) No 486/2012 of 30 March 2012 amending Regulation \(EC\) No 809/2004 as regards the format and the content of the prospectus, the base](#)

Status: Point in time view as at 22/09/2012.

*Changes to legislation: There are currently no known outstanding effects for the
Commission regulation (EC) No 809/2004 (repealed). (See end of Document for details)*

prospectus, the summary and the final terms and as regards the disclosure requirements (Text with EEA relevance).

- F4** Substituted by Commission Delegated Regulation (EU) No 862/2012 of 4 June 2012 amending Regulation (EC) No 809/2004 as regards information on the consent to use of the prospectus, information on underlying indexes and the requirement for a report prepared by independent accountants or auditors (Text with EEA relevance).

Article 23

Adaptations to the minimum information given in prospectuses and base prospectuses

1 Notwithstanding Articles 3 second paragraph and 22(1) second subparagraph, where the issuer's activities fall under one of the categories included in Annex XIX, the competent authority of the home Member State, taking into consideration the specific nature of the activities involved, may ask for adapted information, in addition to the information items included in the schedules and building blocks set out in Articles 4 to 20, including, where appropriate, a valuation or other expert's report on the assets of the issuer, in order to comply with the obligation referred to in Article 5(1) of Directive 2003/71/EC. The competent authority shall forthwith inform the Commission thereof.

In order to obtain the inclusion of a new category in Annex XIX a Member State shall notify its request to the Commission. The Commission shall update this list following the Committee procedure provided for in Article 24 of Directive 2003/71/EC.

2 By way of derogation of Articles 3 to 22, where an issuer, an offeror or a person asking for admission to trading on a regulated market applies for approval of a prospectus or a base prospectus for a security which is not the same but comparable to the various types of securities mentioned in the table of combinations set out in Annex XVIII, the issuer, the offeror or the person asking for admission to trading on a regulated market shall add the relevant information items from another securities note schedule provided for in Articles 4 to 20 to the main securities note schedule chosen. This addition shall be done in accordance with the main characteristics of the securities being offered to the public or admitted to trading on a regulated market.

3 By way of derogation of Articles 3 to 22, where an issuer, an offeror or a person asking for admission to trading on a regulated market applies for approval of a prospectus or a base prospectus for a new type of security, the issuer, the offeror or the person asking for admission to trading on a regulated market shall notify a draft prospectus or base prospectus to the competent authority of the home Member State.

The competent authority shall decide, in consultation with the issuer, the offeror or the person asking for admission to trading on a regulated market, what information shall be included in the prospectus or base prospectus in order to comply with the obligation referred to in Article 5(1) of Directive 2003/71/EC. The competent authority shall forthwith inform the Commission thereof.

The derogation referred to in the first subparagraph shall only apply in case of a new type of security which has features completely different from the various types of securities mentioned in Annex XVIII, if the characteristics of this new security are such that a combination of the different information items referred to in the schedules and building blocks provided for in Articles 4 to 20 is not pertinent.

4 By way of derogation of Articles 3 to 22, in the cases where one of the information items required in one of the schedules or building blocks referred to in 4 to 20 or equivalent

Status: Point in time view as at 22/09/2012.

Changes to legislation: There are currently no known outstanding effects for the Commission regulation (EC) No 809/2004 (repealed). (See end of Document for details)

information is not pertinent to the issuer, to the offer or to the securities to which the prospectus relates, that information may be omitted.

[^{F2}Article 24

Content of the summary of the prospectus, of the base prospectus and of the individual issue

1 The issuer, the offeror or the person asking for the admission to trading on a regulated market shall determine the detailed content of the summary referred to in Article 5(2) of Directive 2003/71/EC in accordance with this Article.

A summary shall contain the key information items set out in Annex XXII. Where an item is not applicable to a prospectus, such item shall appear in the summary with the mention 'not applicable'. The length of the summary shall take into account the complexity of the issuer and of the securities offered, but shall not exceed 7 % of the length of a prospectus or 15 pages, whichever is the longer. It shall not contain cross-references to other parts of the prospectus.

The order of the sections and of the elements of Annex XXII shall be mandatory. The summary shall be drafted in clear language, presenting the key information in an easily accessible and understandable way. Where an issuer is not under an obligation to include a summary in a prospectus pursuant to Article 5(2) of Directive 2003/71/EC, but produces an overview section in the prospectus, this section shall not be entitled 'Summary' unless the issuer complies with all disclosure requirements for summaries laid down in this Article and Annex XXII.

2 The summary of the base prospectus may contain the following information:

- a information included in the base prospectus;
- b options for information required by the securities note schedule and its building block(s);
- c information required by the securities note schedule and its building block(s) left in blank for later insertion in the final terms.

3 The summary of the individual issue shall provide the key information of the summary of the base prospectus combined with the relevant parts of the final terms. The summary of the individual issue shall contain the following:

- a the information of the summary of the base prospectus which is only relevant to the individual issue;
- b the options contained in the base prospectus which are only relevant to the individual issue as determined in the final terms;
- c the relevant information given in the final terms which has been previously left in blank in the base prospectus.

Where the final terms relate to several securities which differ only in some very limited details, such as the issue price or maturity date, one single summary of the individual issue may be attached for all those securities, provided the information referring to the different securities is clearly segregated.

The summary of the individual issue shall be subject to the same requirements as the final terms and shall be annexed to them.]

Status: Point in time view as at 22/09/2012.

*Changes to legislation: There are currently no known outstanding effects for the
Commission regulation (EC) No 809/2004 (repealed). (See end of Document for details)*

Textual Amendments

- F2** Substituted by [Commission Delegated Regulation \(EU\) No 486/2012 of 30 March 2012 amending Regulation \(EC\) No 809/2004 as regards the format and the content of the prospectus, the base prospectus, the summary and the final terms and as regards the disclosure requirements \(Text with EEA relevance\)](#).

CHAPTER III

FORMAT OF THE PROSPECTUS, BASE PROSPECTUS AND SUPPLEMENTS

Article 25

Format of the prospectus

1 Where an issuer, an offeror or a person asking for the admission to trading on a regulated market chooses, according to Article 5(3) of Directive 2003/71/EC to draw up a prospectus as a single document, the prospectus shall be composed of the following parts in the following order:

1. a clear and detailed table of contents;
2. the summary provided for in Article 5 (2) of Directive 2003/71/EC;
3. the risk factors linked to the issuer and the type of security covered by the issue;
4. the other information items included in the schedules and building blocks according to which the prospectus is drawn up.

2 Where an issuer, an offeror or a person asking for the admission to trading on a regulated market chooses, according to in Article 5(3) of Directive 2003/71/EC, to draw up a prospectus composed of separate documents, the securities note and the registration document shall be each composed of the following parts in the following order:

1. a clear and detailed table of content;
2. as the case may be, the risk factors linked to the issuer and the type of security covered by the issue;
3. the other information items included in the schedules and building blocks according to which the prospectus is drawn up.

3 In the cases mentioned in paragraphs 1 and 2, the issuer, the offeror or the person asking for admission to trading on a regulated market shall be free in defining the order in the presentation of the required information items included in the schedules and building blocks according to which the prospectus is drawn up.

4 Where the order of the items does not coincide with the order of the information provided for in the schedules and building blocks according to which the prospectus is drawn up, the competent authority of the home Member State may ask the issuer, the offeror or the person asking for the admission to trading on a regulated market to provide a cross reference list for the purpose of checking the prospectus before its approval. Such list shall identify the pages where each item can be found in the prospectus.

Status: Point in time view as at 22/09/2012.

Changes to legislation: There are currently no known outstanding effects for the Commission regulation (EC) No 809/2004 (repealed). (See end of Document for details)

5 Where the summary of a prospectus must be supplemented according to Article 16(1) of Directive 2003/71/EC, the issuer, the offeror or the person asking for admission to trading on a regulated market shall decide on a case-by-case basis whether to integrate the new information in the original summary by producing a new summary, or to produce a supplement to the summary.

If the new information is integrated in the original summary, the issuer, the offeror or the person asking for admission to trading on a regulated market shall ensure that investors can easily identify the changes, in particular by way of footnotes.

[^{F3}In any case, a new filing of final terms and summary of the individual issue annexed thereto corresponding to offers made prior to the production of a new summary or a supplement to the summary shall not be required.]

Textual Amendments

- F3** Inserted by [Commission Delegated Regulation \(EU\) No 486/2012 of 30 March 2012 amending Regulation \(EC\) No 809/2004 as regards the format and the content of the prospectus, the base prospectus, the summary and the final terms and as regards the disclosure requirements \(Text with EEA relevance\)](#).

Article 26

Format of the base prospectus and its related final terms

1 Where an issuer, an offeror or a person asking for the admission to trading on a regulated market chooses, according to Article 5 (4) of Directive 2003/71/EC to draw up a base prospectus, the base prospectus shall be composed of the following parts in the following order:

1. a clear and detailed table of contents;
2. the summary provided for in Article 5 (2) of Directive 2003/71/EC;
3. the risk factors linked to the issuer and the type of security or securities covered by the issue(s);
4. the other information items included in the schedules and building blocks according to which the prospectus is drawn up.

2 Notwithstanding paragraph 1, the issuer, the offeror or the person asking for admission to trading on a regulated market shall be free in defining the order in the presentation of the required information items included in the schedules and building blocks according to which the prospectus is drawn up. The information on the different securities contained in the base prospectus shall be clearly segregated.

3 Where the order of the items does not coincide with the order of the information provided for by the schedules and building blocks according to which the prospectus is drawn up, the home competent authority may ask the issuer, the offeror or the person asking for admission to trading on a regulated market to provide a cross reference list for the purpose of checking the prospectus before its approval. Such list should identify the pages where each item can be found in the prospectus.

4 In case the issuer, the offeror or the person asking for admission to trading on a regulated market has previously filed a registration document for a particular type of security and, at a later stage, chooses to draw up base prospectus in conformity with the conditions

Status: Point in time view as at 22/09/2012.

*Changes to legislation: There are currently no known outstanding effects for the
Commission regulation (EC) No 809/2004 (repealed). (See end of Document for details)*

provided for in points (a) and (b) of Article 5(4) of Directive 2003/71/EC, the base prospectus shall contain:

1. the information contained in the previously or simultaneously filed and approved registration document which shall be incorporated by reference, following the conditions provided for in Article 28 of this Regulation;
2. the information which would otherwise be contained in the relevant securities note less the final terms where the final terms are not included in the base prospectus.

[^{F25} The final terms shall be presented in the form of a separate document or be included in the base prospectus. The final terms shall be prepared in an easily analysable and comprehensible form.

The items of the relevant securities note schedule and its building blocks, which are included in the base prospectus, shall not be reproduced in the final terms.

The issuer, the offeror or the person asking for admission to trading on a regulated market may include any of the additional information set out in Annex XXI in the final terms.

A clear and prominent statement shall be inserted in the final terms indicating:

- a that the final terms have been prepared for the purpose of Article 5(4) of Directive 2003/71/EC and must be read in conjunction with the base prospectus and its supplement(s);
- b where the base prospectus and its supplement(s) are published in accordance with Article 14 of Directive 2003/71/EC;
- c that in order to get the full information both the base prospectus and the final terms must be read in conjunction;
- d that a summary of the individual issue is annexed to the final terms.

The final terms may include the signature of the legal representative of the issuer or the person responsible for the prospectus according to the relevant national law or the signature of both.

5a The final terms and the summary of the individual issue shall be drawn up in the same language respectively as the approved version of the form of the final terms of the base prospectus and as the summary of the base prospectus.

When the final terms are communicated to the competent authority of the host Member State or, if there is more than one host Member State, to the competent authorities of the host Member States, in accordance with Article 5(4) of Directive 2003/71/EC, the following language rules shall apply to the final terms and the annexed summary:

- a where the summary of the base prospectus is to be translated pursuant to Article 19 of Directive 2003/71/EC, the summary of the individual issue annexed to the final terms shall be subject to the same translation requirements as the summary of the base prospectus;
- b where the base prospectus is to be translated pursuant to Article 19 of Directive 2003/71/EC, the final terms and the summary of the individual issue annexed thereto, shall be subject to the same translation requirements as the base prospectus.

The issuer shall communicate those translations, together with the final terms, to the competent authority of the host Member State or, if there is more than one host Member State, to the competent authorities of the host Member States.]

Status: Point in time view as at 22/09/2012.

Changes to legislation: There are currently no known outstanding effects for the Commission regulation (EC) No 809/2004 (repealed). (See end of Document for details)

6 Where a base prospectus relates to different securities, the issuer, the offeror or the person asking for admission to trading on a regulated market shall include a single summary in the base prospectus for all securities. The information on the different securities contained in the summary, however, shall be clearly segregated.

7 Where the summary of a base prospectus must be supplemented according to Article 16(1) of Directive 2003/71/EC, the issuer, the offeror or the person asking for admission to trading on a regulated market shall decide on a case-by-case basis whether to integrate the new information in the original summary by producing a new summary, or by producing a supplement to the summary.

If the new information is integrated in the original summary of the base prospectus by producing a new summary, the issuer, the offeror or the person asking for admission to trading on a regulated market shall ensure that investors can easily identify the changes, in particular by way of footnotes.

8 Issuers, offerors or persons asking for admission to trading on a regulated market may compile in one single document two or more different base prospectuses.

Textual Amendments

- F2** Substituted by [Commission Delegated Regulation \(EU\) No 486/2012 of 30 March 2012 amending Regulation \(EC\) No 809/2004 as regards the format and the content of the prospectus, the base prospectus, the summary and the final terms and as regards the disclosure requirements \(Text with EEA relevance\)](#).

[^{F3}CHAPTER IIIa

PROPORTIONATE DISCLOSURE REGIME

Article 26a

Proportionate schedule for rights issues

1 The proportionate schedules set out in Annexes XXIII and XXIV shall apply to rights issues, provided that the issuer has shares of the same class already admitted to trading on a regulated market or a multilateral trading facility as defined in point 15 of Article 4(1) of Directive 2004/39/EC of the European Parliament and of the Council⁽³⁾.

2 Issuers whose shares of the same class are already admitted to trading on a multilateral trading facility can only make use of the schedules set out in Annexes XXIII and XXIV when the rules of that multilateral trading facility contain the following:

- a provisions requiring issuers to publish annual financial statements and audit reports within 6 months after the end of each financial year, half yearly financial statements within 4 months after the end of the first 6 months of each financial year and make public inside information as defined in point 1 of the first paragraph of Article 1 of Directive 2003/6/EC pursuant to Article 6 of that Directive;
- b provisions requiring issuers to make the reports and information referred to in point (a) available to the public by publishing them on their websites;
- c provisions preventing insider dealing and market manipulation in accordance with Directive 2003/6/EC.

Status: Point in time view as at 22/09/2012.

*Changes to legislation: There are currently no known outstanding effects for the
Commission regulation (EC) No 809/2004 (repealed). (See end of Document for details)*

3 A statement at the beginning of the prospectus shall indicate clearly that the rights issue is addressed to shareholders of the issuer and that the level of disclosure of the prospectus is proportionate to that type of issue.

Article 26b

**Proportionate schedules for small and medium-sized
enterprises and companies with reduced market capitalisation**

The proportionate schedules set out in Annexes XXV to XXVIII shall apply when securities issued by small and medium-sized enterprises and companies with reduced market capitalisation are offered to the public or admitted to trading on a regulated market situated or operating within a Member State.

However, small and medium-sized enterprises and companies with reduced market capitalisation may instead choose to draw up a prospectus in accordance with the schedules set out Annexes I to XVII and XX to XXIV.

Article 26c

**Proportionate requirements for issues by credit institutions
referred to in Article 1(2)(j) of Directive 2003/71/EC**

Credit institutions issuing securities referred to in Article 1(2)(j) of Directive 2003/71/EC that draw up a prospectus in accordance with Article 1(3) of that Directive may choose to include in their prospectus historical financial information covering only the last financial year, or such shorter period that the issuer has been in operation, in accordance with Annex XXIX to this Regulation.]

CHAPTER IV

INFORMATION AND INCORPORATION BY REFERENCE

^{F1}Article 27

[^{F1}Publication of the document referred to in Article 10(1) of Directive 2003/71/EC]

Textual Amendments

- F1** Deleted by [Commission Delegated Regulation \(EU\) No 486/2012 of 30 March 2012 amending Regulation \(EC\) No 809/2004 as regards the format and the content of the prospectus, the base prospectus, the summary and the final terms and as regards the disclosure requirements \(Text with EEA relevance\).](#)

Status: Point in time view as at 22/09/2012.

Changes to legislation: There are currently no known outstanding effects for the Commission regulation (EC) No 809/2004 (repealed). (See end of Document for details)

Article 28

Arrangements for incorporation by reference

1 Information may be incorporated by reference in a prospectus or base prospectus, notably if it is contained in one the following documents:

1. annual and interim financial information;
2. documents prepared on the occasion of a specific transaction such as a merger or de-merger;
3. audit reports and financial statements;
4. memorandum and articles of association;
5. earlier approved and published prospectuses and/or base prospectuses;
6. regulated information;
7. circulars to security holders.

2 The documents containing information that may be incorporated by reference in a prospectus or base prospectus or in the documents composing it shall be drawn up following the provisions of Article 19 of Directive 2003/71/EC.

3 If a document which may be incorporated by reference contains information which has undergone material changes, the prospectus or base prospectus shall clearly state such a circumstance and shall give the updated information.

4 The issuer, the offeror or the person asking for admission to trading on a regulated market may incorporate information in a prospectus or base prospectus by making reference only to certain parts of a document, provided that it states that the non- incorporated parts are either not relevant for the investor or covered elsewhere in the prospectus.

5 When incorporating information by reference, issuers, offerors or persons asking for admission to trading on a regulated market shall endeavour not to endanger investor protection in terms of comprehensibility and accessibility of the information.

CHAPTER V

PUBLICATION AND DISSEMINATION OF ADVERTISEMENTS

Article 29

Publication in electronic form

1 The publication of the prospectus or base prospectus in electronic form, either pursuant to points (c) (d) and (e) of Article 14(2) of Directive 2003/71/EC, or as an additional means of availability, shall be subject to the following requirements:

1. the prospectus or base prospectus shall be easily accessible when entering the web-site;

Status: Point in time view as at 22/09/2012.

*Changes to legislation: There are currently no known outstanding effects for the
Commission regulation (EC) No 809/2004 (repealed). (See end of Document for details)*

2. the file format shall be such that the prospectus or base prospectus cannot be modified;
3. the prospectus or base prospectus shall not contain hyper-links, with exception of links to the electronic addresses where information incorporated by reference is available;
4. the investors shall have the possibility of downloading and printing the prospectus or base prospectus.

The exception referred to in point 3 of the first subparagraph shall only be valid for documents incorporated by reference; those documents shall be available with easy and immediate technical arrangements.

2 If a prospectus or base prospectus for offer of securities to the public is made available on the web-sites of issuers and financial intermediaries or of regulated markets, these shall take measures, to avoid targeting residents in Members States or third countries where the offer of securities to the public does not take place, such as the insertion of a disclaimer as to who are the addressees of the offer.

Article 30

Publication in newspapers

- 1 In order to comply with point (a) of Article 14(2) of Directive 2003/71/EC the publication of a prospectus or a base prospectus shall be made in a general or financial information newspaper having national or supra-regional scope;
- 2 If the competent authority is of the opinion that the newspaper chosen for publication does not comply with the requirements set out in paragraph 1, it shall determine a newspaper whose circulation is deemed appropriate for this purpose taking into account, in particular, the geographic area, number of inhabitants and reading habits in each Member State.

Article 31

Publication of the notice

1 If a Member State makes use of the option, referred to in Article 14(3) of Directive 2003/71/EC, to require the publication of a notice stating how the prospectus or base prospectus has been made available and where it can be obtained by the public, that notice shall be published in a newspaper that fulfils the requirements for publication of prospectuses according to Article 30 of this Regulation.

If the notice relates to a prospectus or base prospectus published for the only purpose of admission of securities to trading on a regulated market where securities of the same class are already admitted, it may alternatively be inserted in the gazette of that regulated market, irrespective of whether that gazette is in paper copy or electronic form.

- 2 The notice shall be published no later than the next working day following the date of publication of the prospectus or base prospectus pursuant to Article 14(1) of Directive 2003/71/EC.
- 3 The notice shall contain the following information:
 1. the identification of the issuer;

Status: Point in time view as at 22/09/2012.

Changes to legislation: There are currently no known outstanding effects for the Commission regulation (EC) No 809/2004 (repealed). (See end of Document for details)

2. the type, class and amount of the securities to be offered and/or in respect of which admission to trading is sought, provided that these elements are known at the time of the publication of the notice;
3. the intended time schedule of the offer/admission to trading;
4. a statement that a prospectus or base prospectus has been published and where it can be obtained;
5. if the prospectus or base prospectus has been published in a printed form, the addresses where and the period of time during which such printed forms are available to the public;
6. if the prospectus or base prospectus has been published in electronic form, the addresses to which investors shall refer to ask for a paper copy;
7. the date of the notice.

Article 32

List of approved prospectuses

The list of the approved prospectuses and base prospectuses published on the web-site of the competent authority, in accordance with Article 14(4) of Directive 2003/71/EC, shall mention how such prospectuses have been made available and where they can be obtained.

Article 33

Publication of the final terms of base prospectuses

The publication method for final terms related to a base prospectus does not have to be the same as the one used for the base prospectus as long as the publication method used is one of the publication methods indicated in Article 14 of the Directive 2003/71/EC.

Article 34

Dissemination of advertisements

Advertisements related to an offer to the public of securities or to an admission to trading on a regulated market may be disseminated to the public by interested parties, such as issuer, offeror or person asking for admission, the financial intermediaries that participate in the placing and/or underwriting of securities, notably by one of the following means of communication:

1. addressed or unaddressed printed matter;
2. electronic message or advertisement received via a mobile telephone or pager;
3. standard letter;
4. Press advertising with or without order form;
5. catalogue;

Status: Point in time view as at 22/09/2012.

*Changes to legislation: There are currently no known outstanding effects for the
Commission regulation (EC) No 809/2004 (repealed). (See end of Document for details)*

6. telephone with or without human intervention;
7. seminars and presentations;
8. radio;
9. videophone;
10. videotext;
11. electronic mail;
12. facsimile machine (fax);
13. television;
14. notice;
15. bill;
16. poster;
17. brochure;
18. web posting including internet banners.

[^{F3}Where no prospectus is required in accordance with Directive 2003/71/EC, any advertisement shall include a warning to that effect unless the issuer, the offeror or the person asking for admission to trading on a regulated market chooses to publish a prospectus which complies with Directive 2003/71/EC and this Regulation.]

Textual Amendments

- F3** Inserted by [Commission Delegated Regulation \(EU\) No 486/2012 of 30 March 2012 amending Regulation \(EC\) No 809/2004 as regards the format and the content of the prospectus, the base prospectus, the summary and the final terms and as regards the disclosure requirements \(Text with EEA relevance\)](#).

CHAPTER VI

TRANSITIONAL AND FINAL PROVISIONS

Article 35

Historical financial information

1 The obligation for Community issuers to restate in a prospectus historical financial information according to Regulation (EC) No 1606/2002, set out in Annex I item 20.1, Annex IV item 13.1, Annex VII items 8.2, Annex X items 20.1 and Annex XI item 11.1 shall not apply to any period earlier than 1 January 2004 or, where an issuer has securities admitted to trading on a regulated market on 1 July 2005, until the issuer has published its first consolidated annual accounts with accordance with Regulation (EC) No 1606/2002.

2 Where a Community issuer is subject to transitional national provisions adopted pursuant Article 9 of Regulation (EC) No 1606/2002, the obligation to restate in a prospectus

Status: Point in time view as at 22/09/2012.

Changes to legislation: There are currently no known outstanding effects for the Commission regulation (EC) No 809/2004 (repealed). (See end of Document for details)

historical financial information does not apply to any period earlier than 1 January 2006 or, where an issuer has securities admitted to trading on a regulated market on 1 July 2005, until the issuer has published its first consolidated annual accounts with accordance with Regulation (EC) No 1606/2002.

3 Until 1 January 2007 the obligation to restate in a prospectus historical financial information according to Regulation (EC) No 1606/2002, set out in Annex I item 20.1, Annex IV item 13.1, Annex VII items 8.2, Annex X items 20.1 and Annex XI item 11.1 shall not apply to issuers from third countries:

1. who have their securities admitted to trading on a regulated market on 1 January 2007;
and
2. who have presented and prepared historical financial information according to the national accounting standards of a third country.

In this case, historical financial information shall be accompanied with more detailed and/or additional information if the financial statements included in the prospectus do not give a true and fair view of the issuer's assets and liabilities, financial position and profit and loss.

4 Third country issuers having prepared historical financial information according to internationally accepted standards as referred to in Article 9 of Regulation (EC) No 1606/2002 may use that information in any prospectus filed before 1 January 2007, without being subject to restatement obligations.

[^{F75} From 1 January 2009, third country issuers shall present their historical financial information in accordance either with one of the following accounting standards:

- a International Financial Reporting Standards adopted pursuant to Regulation (EC) No 1606/2002;
- b International Financial Reporting Standards provided that the notes to the audited financial statements that form part of the historical financial information contain an explicit and unreserved statement that these financial statements comply with International Financial Reporting Standards in accordance with IAS 1 *Presentation of Financial Statements*;
- c Generally Accepted Accounting Principles of Japan;
- d Generally Accepted Accounting Principles of the United States of America.

[^{F8}In addition to standards referred to in the first subparagraph, from 1 January 2012, third country issuers may present their historical financial information in accordance with the following standards:

- a Generally Accepted Accounting Principles of the People's Republic of China;
- b Generally Accepted Accounting Principles of Canada;
- c Generally Accepted Accounting Principles of the Republic of Korea.]

[^{F25a} Third country issuers are not subject to a requirement under item 20.1 of Annex I, item 13.1 of Annex IV, item 8.2 of Annex VII, item 20.1 of Annex X, item 11.1 of Annex XI, item 15.1 of Annex XXIII, item 20.1 of Annex XXV, item 13.1 of Annex XXVI, item 20.1 of Annex XXVIII or item 11 of Annex XXIX, to restate historical financial information included in a prospectus and relevant for the financial years prior to financial years starting on or after 1 January 2015, or to a requirement under item 8.2.a of Annex VII, item 11.1 of Annex IX, item 20.1.a of Annex X, item 11.1 of Annex XXVII or item 20.1 of Annex XXVIII to provide a narrative description of the differences between International Financial Reporting Standards adopted pursuant to Regulation (EC) No 1606/2002 and the accounting principles in accordance

Status: Point in time view as at 22/09/2012.

Changes to legislation: There are currently no known outstanding effects for the
Commission regulation (EC) No 809/2004 (repealed). (See end of Document for details)

with which such information is drawn up relating to the financial years prior to financial years starting on or after 1 January 2015, provided that the historical financial information is prepared in accordance with the Generally Accepted Accounting Principles of the Republic of India.]]

F⁹5B

F⁹5C

F⁹5D

F⁹5E

6 The provisions of this Article shall also apply to Annex VI, item 3.

Textual Amendments

- F2** Substituted by Commission Delegated Regulation (EU) No 486/2012 of 30 March 2012 amending Regulation (EC) No 809/2004 as regards the format and the content of the prospectus, the base prospectus, the summary and the final terms and as regards the disclosure requirements (Text with EEA relevance).
- F7** Substituted by Commission Regulation (EC) No 1289/2008 of 12 December 2008 amending Commission Regulation (EC) No 809/2004 implementing Directive 2003/71/EC of the European Parliament and of the Council as regards elements related to prospectuses and advertisements (Text with EEA relevance).
- F8** Inserted by Commission Delegated Regulation (EU) No 311/2012 of 21 December 2011 amending Regulation (EC) No 809/2004 implementing Directive 2003/71/EC of the European Parliament and of the Council as regards elements related to prospectuses and advertisements (Text with EEA relevance).
- F9** Deleted by Commission Regulation (EC) No 1289/2008 of 12 December 2008 amending Commission Regulation (EC) No 809/2004 implementing Directive 2003/71/EC of the European Parliament and of the Council as regards elements related to prospectuses and advertisements (Text with EEA relevance).

Article 36

Entry into force

This Regulation shall enter into force in Member States on the twentieth day after its publication in the *Official Journal of the European Union*.

It shall apply from 1 July 2005.

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

Status: Point in time view as at 22/09/2012.

Changes to legislation: There are currently no known outstanding effects for the Commission regulation (EC) No 809/2004 (repealed). (See end of Document for details)

- (1) [^{X1}OJ L 96, 12.4.2003, p. 16
- (2) [^{F3}OJ L 26, 31.1.1977, p. 1.]
- (3) [^{F3}OJ L 145, 30.4.2004, p. 1.]]

Editorial Information

- X1** Substituted by [Corrigendum to Commission Regulation \(EC\) No 809/2004 of 29 April 2004 implementing Directive 2003/71/EC of the European Parliament and of the Council as regards information contained in prospectuses as well as the format, incorporation by reference and publication of such prospectuses and dissemination of advertisements \(Official Journal of the European Union L 149 of 30 April 2004\)](#).

Textual Amendments

- F3** Inserted by [Commission Delegated Regulation \(EU\) No 486/2012 of 30 March 2012 amending Regulation \(EC\) No 809/2004 as regards the format and the content of the prospectus, the base prospectus, the summary and the final terms and as regards the disclosure requirements \(Text with EEA relevance\)](#).

Status:

Point in time view as at 22/09/2012.

Changes to legislation:

There are currently no known outstanding effects for the Commission regulation (EC)
No 809/2004 (repealed).