
STATUTORY INSTRUMENTS

2012 No. 1538

The Prospectus Regulations 2012

New definition of qualified investor

- 3.—(1) Omit section 84(3) of the 2000 Act(1) (matters to be dealt with by prospectus rules).
- (2) In section 86 of the 2000 Act (exempt offers to the public)—
- (a) in subsection (2)(a), for “Article 2.1(e)(i) of the prospectus directive” substitute “point (1) of Section I of Annex II to the markets in financial instruments directive”;
 - (b) for subsection (7) substitute—
 - “(7) “Qualified investor”, in relation to an offer of transferable securities, means—
 - (a) a person described in points (1) to (4) of Section I of Annex II to the markets in financial instruments directive, other than a person who, before the making of the offer, has agreed in writing with the relevant firm (or each of the relevant firms) to be treated as a non-professional client in accordance with the final paragraph of Section I of Annex II to that directive;
 - (b) a person who has made a request to one or more relevant firms to be treated as a professional client in accordance with Section II of Annex II to that directive and has not subsequently, but before the making of the offer, agreed in writing with that relevant firm (or each of those relevant firms) to be treated as a non-professional client in accordance with the final paragraph of Section I of Annex II to that directive;
 - (c) a person who is an eligible counterparty in accordance with Article 24 of that directive and has not, before the making of the offer, agreed in writing with the relevant firm (or each of the relevant firms) to be treated as a non-professional client in accordance with the final paragraph of Section I of Annex II to that directive; or
 - (d) a person whom any relevant firm is authorised to continue to treat as a professional client in accordance with Article 71(6) of that directive.”;
 - (c) after subsection (7) insert—
 - “(8) In subsection (7) “relevant firm” means an investment firm or credit institution acting in connection with the offer.
 - (9) Investment firms and credit institutions which are authorised persons must communicate their classification of their clients as being or not being qualified investors on request to an issuer subject to complying with the Data Protection Act 1998 or any directly applicable EU legislation relating to data protection.
 - (10) In subsections (8) and (9), “credit institution” means—
 - (a) a credit institution authorised under the banking consolidation directive; or

(1) Section 84 was inserted by [S.I. 2005/1433](#).

- (b) an institution which would satisfy the requirements for authorisation as a credit institution under that directive if it had its registered office (or if it does not have one, its head office) in an EEA State.”.
- (3) Omit section 87R of the 2000 Act⁽²⁾ (register of investors).

(2) Section 87R was inserted by [S.I. 2005/1433](#).