

## SCHEDULE 5

### FURTHER PROVISION WITH RESPECT TO CONVERSION OF CERTIFICATED AND ISSUE OF UNCERTIFICATED SECURITIES

#### PART I CONVERSION

##### **Instruments of transfer received late**

1.—(1) Any proper instrument of transfer received by the company after the relevant date (within the meaning of regulation 75(6)) but prior to conversion (subject to any direction that may have been given by the Operator under that regulation) shall be sent by the company to the company controller or controllers who are to hold or who are holding the entitlements to the units concerned, who shall treat the instrument as if it were an instruction under regulation 33 to hold any entitlements concerned to the person named therein as transferee.

(2) Any such instrument received after conversion shall cease to have effect; the company shall inform the person lodging such an instruction as soon as reasonably practicable of this fact.

##### **Communications received early**

2. Any communication of whatsoever nature purportedly received or sent in accordance with the system with respect to units of the security prior to the conversion of the security may be taken by the recipient as though the communication were received or sent immediately after conversion, except for the purposes of regulation 68.

##### **Pledged securities (England and Wales and Northern Ireland)**

3.—(1) This paragraph applies so as to enable a person (“the pledgee”) holding a certificate to a unit of the security, with or without a signed instrument of transfer, as security for any obligation under the law of England and Wales or Northern Ireland to obtain equivalent security upon conversion.

(2) A pledgee of a unit of the security of a company may, at any time prior to the conversion being effected but after the publication of the first notice published under regulation 75, notify the company in writing of his interest in the unit, attaching to the notice a certified copy of the certificate to the unit and of any instrument of transfer held.

(3) It is the duty of a company in receipt of a notification under sub-paragraph (2) to ensure that, on or before the conversion of the security, the controller which holds the entitlement to the unit:

- (a) (where the notification attaches a copy certificate only) is informed of the pledgee’s interest in the unit; or
- (b) (where the notification attaches a copy certificate and copy signed instrument of transfer) is given a copy of the notification and its enclosures.

A controller:

- (i) informed of a pledgee’s interest under sub-paragraph (a) shall be under a duty to inform the pledgee that he or it is on notice of the interest (together with the date on which he or it was informed of the interest) and not to transfer any relevant entitlements held for the account holder concerned, or act upon any instructions received under regulation 33 in relation to such entitlements, without giving 14 days prior notice to the pledgee of his or its intention to do so; or

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(ii) in receipt of a notification, copy certificate and copy signed instrument of transfer under subparagraph (b) shall treat the notification as an instruction of the kind referred to in regulation 34.

(4) It shall be lawful for a pledgee to make a notification under this paragraph without having obtained the consent of the holder of the unit.

(5) In this paragraph “pledgee” means any person interested by way of security in a unit by reason of the deposit of the certificate to it, including an equitable mortgagee and “certified copy” means a copy certified as a true copy by a notary, notary public or other person authorised by law, in the place where the pledgee has a place of business or (being an individual) resides or (being a body corporate) is incorporated, to administer oaths or authenticate documents.

(6) This paragraph applies notwithstanding any provision in any agreement to the contrary.

#### **Existing certificates**

4. Notwithstanding regulation 48(2), any certificate properly extant at the moment of conversion shall remain (if it otherwise would be) prima facie evidence, and in Scotland sufficient evidence unless the contrary is shown, of the title to the unit immediately prior to its conversion.

#### **Existing agreements for transfer**

5. Where at the date of conversion there is a contract for the transfer of a unit of the security which has, by that date, not been completed by the registration of the transferee as the holder of the unit in question, regulations 48(3) and 49 shall have effect with respect to that contract unless paragraph 1 of this Schedule applies.

#### **Existing rights to transfer and existing transmissions by operation of law**

6.—(1) Where a circumstance has occurred prior to the date of conversion which would have been a relevant circumstance, within the meaning of regulation 51, had the security then been in uncertificated form, that regulation shall apply as if the relevant circumstance had occurred immediately after conversion.

(2) Where the company has actual knowledge of the circumstance the company shall give notice of it to any controller which is to hold the entitlement to the unit at the moment of conversion and regulation 51 shall apply with any necessary modifications.

#### **Existing restrictions on transfer**

7.—(1) This paragraph applies where, immediately prior to the date of conversion, there is extant in relation to any unit of the certificated security concerned any injunction, interdict or other Order to which regulation 52 would, if the security concerned had been an uncertificated security at the time of the making of the injunction, interdict or Order, have applied.

(2) Where this paragraph applies the company shall give notice of the injunction, interdict or Order (if on actual notice of it) and its terms to the controller which is to hold the entitlement to the unit at the moment of conversion and regulation 52 shall apply with any necessary modifications.

#### **Existing prohibitions 011 transfer**

8.—(1) This paragraph applies where, immediately prior to the date of conversion, there is extant in relation to any unit of the certificated security concerned any restriction to which regulation 53 would, if the security concerned had been an uncertificated security at the time of the imposition of the restriction, have applied.

(2) That regulation shall apply as if the restriction had occurred immediately after conversion.

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(3) The company shall give notice of the restriction (if on actual notice of it) and its terms to the controller which is to hold the entitlement to the unit at the moment of conversion.

**Application of provisions in memoranda and articles and terms of issue**

9.—(1) This paragraph applies to any provision (in the case of shares) in a company's memorandum and articles of association, or (in the case of any security) in the terms of issue of the security, under which in certain circumstances any person specified may transfer, of their own authority, shares or other units of a security registered in the name of a person to another person, but is subject to any contrary provision that may be made in such provision.

(2) A provision to which this paragraph applies shall be construed (if it would not otherwise be) as a provision to to which regulation 51 applies.