
EXPLANATORY NOTE

(This note is not part of the Regulations)

These Regulations implement Directive [2003/71/EC](#) of the European Parliament and of the Council of 4th November 2003 on the prospectus to be published when securities are offered to the public or admitted to trading on a regulated market (“the prospectus directive”).

These Regulations are made under section 2(2) of the European Communities Act [1972 \(c. 68\)](#). They substitute sections 84 to 87 of the Financial Services and Markets Act [2000 \(c. 8\)](#) (“the Act”) with sections 84 to 87R (see regulation 2(1) and Schedule 1 to the Regulations).

Section 84 sets out the matters that may be dealt with in prospectus rules which the Financial Services Authority (“the FSA”) will make. These matters include the form and content of a prospectus, the period of validity of a prospectus and the ways in which a prospectus may be published. Section 85 states the general rule that a person may not make an offer of securities to the public in the UK, or seek admission to trading on a regulated market in the UK, unless a prospectus approved by the FSA has been published. Prospectuses approved by the competent authorities of other EEA States are treated in the same way as those approved by the FSA provided the conditions in section 87H are complied with. Section 85 and Schedule 11A exempt certain securities from the section 85 requirement. Section 86 exempts certain offers from that requirement.

Section 87A states the criteria by which the FSA will approve a prospectus. Section 87B allows the FSA to authorise the omission of information which a prospectus would otherwise have to contain. Section 87C contains the time limits during which applications need to be processed by the FSA and allows the FSA to seek further information in relation to applications for approval of a prospectus. Section 87D contains the procedure to be followed when the FSA approves, proposes not to approve or decides not to approve a prospectus. Sections 87E and 87F allow applications for approval to be transferred between competent authorities within the EEA. Section 87G states when a supplementary prospectus must be produced.

Sections 87J to 87M deal with the powers of the FSA, including conditions precedent to approval (section 87J), the power to suspend or prohibit offers to the public (section 87K), the power to suspend or prohibit admission to trading on a regulated market (section 87L) and the power publicly to censure (section 87M).

These Regulations replace Schedule 11 to the Act with Schedule 11A: see regulation 2(2) and Schedule 2 to the Regulations.

These Regulations also make minor and consequential amendments to primary and secondary legislation: see regulation 2(3) and Schedule 3 to the Regulations.

A full regulatory impact assessment of the effect of this instrument on the costs of business may be obtained from the Capital Markets and Governance Team, HM Treasury, 1 Horse Guards Road, London SW1A 2HQ. A transposition note showing how the main provisions of the prospectus directive are being transposed into UK law is available from the same address. Both documents are available on the Treasury’s website (www.hm-treasury.gov.uk). Copies of both documents have been placed in the libraries of both Houses of Parliament.