

Directive 2003/71/EC of the European Parliament and of the Council of 4 November 2003 on the prospectus to be published when securities are offered to the public or admitted to trading and amending Directive 2001/34/EC (Text with EEA relevance) (repealed)

CHAPTER I

**GENERAL PROVISIONS**

*Article 4*

**Exemptions from the obligation to publish a prospectus**

1 The obligation to publish a prospectus shall not apply to offers of securities to the public of the following types of securities:

- a shares issued in substitution for shares of the same class already issued, if the issuing of such new shares does not involve any increase in the issued capital;
- b securities offered in connection with a takeover by means of an exchange offer, provided that a document is available containing information which is regarded by the competent authority as being equivalent to that of the prospectus, taking into account the requirements of Community legislation;
- c securities offered, allotted or to be allotted in connection with a merger, provided that a document is available containing information which is regarded by the competent authority as being equivalent to that of the prospectus, taking into account the requirements of Community legislation;
- d shares offered, allotted or to be allotted free of charge to existing shareholders, and dividends paid out in the form of shares of the same class as the shares in respect of which such dividends are paid, provided that a document is made available containing information on the number and nature of the shares and the reasons for and details of the offer;
- e securities offered, allotted or to be allotted to existing or former directors or employees by their employer which has securities already admitted to trading on a regulated market or by an affiliated undertaking, provided that a document is made available containing information on the number and nature of the securities and the reasons for and details of the offer.

2 The obligation to publish a prospectus shall not apply to the admission to trading on a regulated market of the following types of securities:

- a shares representing, over a period of 12 months, less than 10 per cent of the number of shares of the same class already admitted to trading on the same regulated market;
- b shares issued in substitution for shares of the same class already admitted to trading on the same regulated market, if the issuing of such shares does not involve any increase in the issued capital;
- c securities offered in connection with a takeover by means of an exchange offer, provided that a document is available containing information which is regarded by the competent authority as being equivalent to that of the prospectus, taking into account the requirements of Community legislation;

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- d securities offered, allotted or to be allotted in connection with a merger, provided that a document is available containing information which is regarded by the competent authority as being equivalent to that of the prospectus, taking into account the requirements of Community legislation;
- e shares offered, allotted or to be allotted free of charge to existing shareholders, and dividends paid out in the form of shares of the same class as the shares in respect of which such dividends are paid, provided that the said shares are of the same class as the shares already admitted to trading on the same regulated market and that a document is made available containing information on the number and nature of the shares and the reasons for and details of the offer;
- f securities offered, allotted or to be allotted to existing or former directors or employees by their employer or an affiliated undertaking, provided that the said securities are of the same class as the securities already admitted to trading on the same regulated market and that a document is made available containing information on the number and nature of the securities and the reasons for and detail of the offer;
- g shares resulting from the conversion or exchange of other securities or from the exercise of the rights conferred by other securities, provided that the said shares are of the same class as the shares already admitted to trading on the same regulated market;
- h securities already admitted to trading on another regulated market, on the following conditions:
  - (i) that these securities, or securities of the same class, have been admitted to trading on that other regulated market for more than 18 months;
  - (ii) that, for securities first admitted to trading on a regulated market after the date of entry into force of this Directive, the admission to trading on that other regulated market was associated with an approved prospectus made available to the public in conformity with Article 14;
  - (iii) that, except where (ii) applies, for securities first admitted to listing after 30 June 1983, listing particulars were approved in accordance with the requirements of Directive 80/390/EEC or Directive 2001/34/EC;
  - (iv) that the ongoing obligations for trading on that other regulated market have been fulfilled;
  - (v) that the person seeking the admission of a security to trading on a regulated market under this exemption makes a summary document available to the public in a language accepted by the competent authority of the Member State of the regulated market where admission is sought;
  - (vi) that the summary document referred to in (v) is made available to the public in the Member State of the regulated market where admission to trading is sought in the manner set out in Article 14(2); and
  - (vii) that the contents of the summary document shall comply with Article 5(2). Furthermore the document shall state where the most recent prospectus can be obtained and where the financial information published by the issuer pursuant to his ongoing disclosure obligations is available.

3 In order to take account of technical developments on financial markets and to ensure uniform application of this Directive, the Commission shall, [<sup>F1</sup>in accordance with the procedure referred to in Article 24(2)], adopt implementing measures concerning paragraphs 1(b), 1(c), 2(c) and 2(d), notably in relation to the meaning of equivalence. [<sup>F2</sup>Those measures, designed

to amend non-essential elements of this Directive by supplementing it, shall be adopted in accordance with the regulatory procedure with scrutiny referred to in Article 24(2a).]

**Textual Amendments**

- F1** Deleted by [Directive 2008/11/EC of the European Parliament and of the Council of 11 March 2008 amending Directive 2003/71/EC on the prospectus to be published when securities are offered to the public or admitted to trading, as regards the implementing powers conferred on the Commission \(Text with EEA relevance\)](#).
- F2** Inserted by [Directive 2008/11/EC of the European Parliament and of the Council of 11 March 2008 amending Directive 2003/71/EC on the prospectus to be published when securities are offered to the public or admitted to trading, as regards the implementing powers conferred on the Commission \(Text with EEA relevance\)](#).