

## **Transposition Table: Implementing Transparency Directive Amending Directive (TDAD)**

### **TRANSPARENCY DIRECTIVE**

**DIRECTIVE 2013/50/EU OF THE EUROPEAN PARLIAMENT AND OF THE COUNCIL of 22 October 2013 amending Directive 2004/109/EC of the European Parliament and of the Council on the harmonisation of transparency requirements in relation to information about issuers whose securities are admitted to trading on a regulated market, Directive 2003/71/EC of the European Parliament and of the Council on the prospectus to be published when securities are offered to the public or admitted to trading and Commission Directive 2007/14/EC laying down detailed rules for the implementation of certain provisions of Directive 2004/109/EC**

<u>Abbreviations used in the Transposition Table:</u>	
DTR	Disclosure and Transparency Rules made by the FCA pursuant to Part 6 of FSMA, and set out in the FCA Handbook of rules and guidance: <a href="https://www.handbook.fca.org.uk/handbook">https://www.handbook.fca.org.uk/handbook</a>
FCA	Financial Conduct Authority
FSMA	Financial Services and Markets Act 2000
Glossary	Glossary in the FCA Handbook of rules and guidance: <a href="https://www.handbook.fca.org.uk/handbook">https://www.handbook.fca.org.uk/handbook</a>
SI 2014/3293	The Payments to Governments and Miscellaneous Provisions Regulations 2014 (No. 3293) <a href="http://www.legislation.gov.uk/uksi/2014/3293/pdfs/uksi_20143293_en.pdf">http://www.legislation.gov.uk/uksi/2014/3293/pdfs/uksi_20143293_en.pdf</a>
TD	Transparency Directive 2004/109/EC as amended by Directive 2008/22/EC, Directive 2010/73/EU and Directive 2010/78/EU (i.e. the version that existed immediately prior to the TDAD coming into force)

**TRANSPOSITION TABLE**

Article of TDAD	Description	Transposed by HMT	Transposed by FCA	Current TD transposition
<b>1</b>				
(1)				
(a)	In Article 2 para 1 of TD (Definitions):			
(i)	(d) replaces definition of issuer;	Reg 5(1) amending s.102A of FSMA	Glossary amendment	Defined in s.102A(6)(aa) of FSMA; and in Glossary
(ii)	(i) to (iv) amends definition of home member state;	Reg 5(2) substituting s.102C of FSMA	Glossary and DTR amendments	Defined in s.102C of FSMA; and in Glossary
(iii)	(q) inserts definition of formal agreement;	N/A	N/A	DTR 5.3.2R(3)
(b)	Inserts new Article 2(2a) of TD (meaning of legal entities)	Reg 5(1) amending definition of “issuer” in s.102A(6)(aa) of FSMA, partially transposes the new definition of legal entities	Glossary amendments	N/A
(2)	Amends Article 3 of TD (Integration of securities markets) to permit Member States to require certain additional disclosures	N/A	N/A	N/A
	(a) Replaces para (1); and (b) inserts para (1a)	N/A (The UK has not made use of the new provisions to impose more stringent	N/A	N/A

Article of TDAD	Description	Transposed by HMT	Transposed by FCA	Current TD transposition
		requirements as part of implementing TDAD)		
(3)				
	Amends Article 4 of TD (Annual financial reports)			
(a)	Substitutes para 1 (annual reports);	N/A	DTR amendments	ss.89A and 89C(2)(a) of FSMA; and DTR 4.1.3R and 4.1.4R
(b)	Inserts new para 7 (electronic reporting format, subject to cost benefit analysis and regulatory technical standards)	N/A (The provision does not need transposition because it does not take effect until 1 January 2020; and ESMA will develop draft regulatory technical standards to specify requirements)	N/A	N/A
(4)				
	Amends Article 5 of TD (Half-yearly financial reports)			
	Substitutes para 1 (half-yearly reports)	N/A	DTR amendments	ss.89A and 89C(3) and (4)(a) of FSMA; and DTR 4.2.2R
(5)	Substitutes Article 6 (Report on payments to governments) for previous Article 6 (Interim management statements)	Reg 4 of SI 2014/3293 amending s.89C of FSMA (Note that this amendment is already in force as part of early	DTR amendments (DTR 4.3A) (Note that these amendments are already in force as part of early implementation of Article 6)	ss.89A and 89C(4)(b) of FSMA; and DTR 4.3

Article of TDAD	Description	Transposed by HMT	Transposed by FCA	Current TD transition
		implementation of Article 6)		
(6)				
	Amends Article 8 of TD (Exemptions)			
(a)	Substitutes para 1;	N/A	DTR amendments	DTR 4.4.1R and 4.4.2R
(b)	Substitutes para 4	N/A	DTR amendments (Note that these amendments are already in force as part of early implementation of Article 6)	DTR Transitional Provision (19)
(7)				
	Amends Article 9 of TD (Notification of the acquisition or disposal of major holdings)			
(a)	Substitutes para 6 (trading book);	Reg 6 making consequential amendments to ss.184, 301E and 422A of FSMA	DTR amendments	DTR 5.1.3R
(b)	Inserts new para 6a (stabilisation purposes); and	Reg 6 making consequential amendments to ss.184, 301E and 422A of FSMA	DTR amendments	N/A
	Inserts new para 6b (ESMA)	N/A (The amendment does not need transposition because ESMA has developed regulatory technical standards to specify calculation, adopted by the Commission)	N/A	N/A

Article of TDAD	Description	Transposed by HMT	Transposed by FCA	Current TD transposition
(8)	Amends Article 12(2) (procedures on the notification and disclosure of major holdings):  Substitutes introductory wording	N/A	DTR amendments	DTR 5.8.3R
(9)				
	Amends Article 13 of TD (information about major holdings)			
(a) and (b)	Substitutes para 1 (to include comparable instruments); inserts para 1a and 1b (calculation and definition of financial instruments)	Reg 2(1), (4) and (5) amending ss.89A, 89F & 89J of FSMA	DTR amendments	s.89F of FSMA; DTR 5.3.1R and 5.3.2R
(c)	Substitutes para 2 (Commission);	N/A (The amendment does not need transposition because it amends the Commission power to make delegated acts)	N/A	N/A
(d)	Inserts para 4 (exemptions)	N/A	DTR amendments	N/A
(10)	Inserts new Article 13a (Aggregation)	N/A	DTR amendments	N/A
(11)	Deletes Article 16(3) (Additional Information)	Reg 2(2) omitting s.89C(2)(c) of FSMA	DTR amendments	ss.89A and 89C of FSMA; DTR 6.1.11R
(12)	Deletes second sub-para in Article 19(1) (Home Member State control)	Reg 2(3) omitting s.89E of FSMA	DTR amendments	s.89E of FSMA and DTR 6.1.2R

Article of TDAD	Description	Transposed by HMT	Transposed by FCA	Current TD transition
(13)	Substitutes Article 21(4) (Access to regulated information)	N/A (The amendment does not need transposition because it amends the Commission power to make delegated acts)	N/A	N/A
(14)	Inserts Article 21a (European electronic access point)	Reg 3 inserting s.89W into FSMA, to require the mechanism referred to in Articles 21(2) and 21a(2)	N/A	N/A
(15)	Replaces Article 22 (Access to regulated information at Union level)	N/A (The amendment does not need transposition because ESMA will develop draft regulatory technical standards to specify requirements)	N/A	N/A
(16)	In Article 23(1) (Third countries) inserts new sub-para	N/A	N/A	DTR 6.2 and DTR 6.3
(17)	In Article 24 (Competent authorities and their powers) adds para 4a (investigative powers); and para 4b (exercise of powers)	Reg 4(3) amending s.97 of FSMA transposes para (4a)  Para 4b does not need transposition (because the sub-para is effectively covered by existing sections of FSMA - see	N/A	The FCA may call for information under ss. 89H, 89I, 89J of FSMA; can appoint persons to carry out investigations

Article of TDAD	Description	Transposed by HMT	Transposed by FCA	Current TD transposition
(18)	In Article 25(2) (Professional secrecy and cooperation between Member States) adds new sub-para	column current TD transposition), except reg 4(1) inserting new s.89NA into FSMA to permit FCA to apply for court order to suspend voting rights and reg 4(2) amending s.91 of FSMA. N/A (The amendment does not need transposition because the sub-para is effectively covered by existing ss. 169 and 354 of FSMA) N/A	N/A	under s.97 of FSMA; and the FCA exercises its sanction powers in accordance with ss. 89K, 89L and 91 of FSMA
(19)	After Article 27b inserts new title	N/A	N/A	N/A
(20)	Replaces Article 28 (Administrative measures and sanctions):			
	Article 28(1)	Section 91 of FSMA is amended by reg 4(2).	N/A	ss.89K, 89L and 91 of FSMA
	Article 28(2) (application of sanctions to members of management bodies etc)	Reg 4(2) amending s.91 of FSMA and consequential amendment in reg 4(6) amending s.97 of FSMA	N/A	s.91 of FSMA
(21)	Inserts new articles:			

Article of TDAD	Description	Transposed by HMT	Transposed by FCA	Current TD transposition
	Article 28a (Breaches);	Reg 4(1) inserting s.89NA into FSMA; and reg 4(2), (3) and (4) amending ss.91, 97 and 380 of FSMA	N/A	ss. 89K, 89L, 91 and 380 of FSMA
	Article 28b (Sanctioning powers);	<p>Articles 28b(1)(a) and 28b(1)(c) do not need transposition because they are effectively covered by existing ss.89K and 91 of FSMA respectively. Reg 4(2) amends s.91.</p> <p>Reg 4(4) amending s.380 of FSMA transposes Article 28b(1)(b)</p> <p>Reg 4(1) inserting new s.89NA into FSMA transposes Article 28b(2)</p> <p>The financial penalties under s.91 of FSMA are not limited and therefore the UK makes use of the new powers to impose additional sanctions under Article 28b(3)</p>	N/A	Sections 89K, 89L, 91 and 380 of FSMA
	Article 28c (Exercise of sanctioning powers)	N/A	FCA statement of policy and guidance	N/A



Article of TDAD	Description	Transposed by HMT	Transposed by FCA	Current TD transition
(22)	Before Article 29 inserts new title	N/A	N/A	N/A
(23)	Replaces Article 29 (Publication of decisions)	Reg 4(5) & (6) amending ss.391 & 391A of FSMA; Reg 4(7) inserting new 391B into FSMA	N/A	N/A
(24)	Replaces Article 31(2)  Communicate to Commission if a MS imposes stricter requirements on issuers under Article 3(1); allows derogations under Article 8(2) or (3); or has transitional provisions under Article 30	N/A (The amendment does not need transposition because the obligation is to communicate with the Commission if certain measures are adopted. The UK is not adopting any new measures as a result of TDAD)	N/A	N/A
<b>2</b>	<b>Amendments to Directive 2003/71/EC (the prospectus directive)</b> Amends definition of home member state	Reg 5(2) substituting s.102C of FSMA and Reg 5(3) amending s.103 of FSMA	N/A (The amendment does not need transposition)	Defined in s.102C of FSMA; and in Glossary
<b>3</b>	<b>Amendments to Directive 2007/14/EC (the transparency directive implementing directive)</b>	N/A	DTR amendments	DTR 6.4.2R, DTR 5.3.2R and DTR 5.3.4R
<b>4</b>	<b>Transposition</b>	N/A	N/A	N/A
<b>5</b>	<b>Review</b>	N/A	N/A	N/A
<b>6</b>	<b>Entry into force</b>	N/A	N/A	N/A

Article of TDAD	Description	Transposed by HMT	Transposed by FCA	Current TD transposition