



STATUTORY INSTRUMENTS.

**S.I. No. 317 of 2018**



PROSPECTUS (DIRECTIVE 2003/71/EC) (AMENDMENT)  
REGULATIONS 2018

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I, PASCHAL DONOHOE, Minister for Finance, in exercise of the powers conferred on me by section 3 of the European Communities Act 1972 (No. 27 of 1972), and for the purpose of giving further effect to Directive 2003/71/EC of the European Parliament and of the Council of 4 November 2003<sup>1</sup> (as amended by Directive 2008/11/EC of the European Parliament and of the Council of 11 March 2008,<sup>2</sup> Directive 2010/73/EU of the European Parliament and of the Council of 24 November 2010,<sup>3</sup> Directive 2010/78/EU of the European Parliament and of the Council of 24 November 2010,<sup>4</sup> Directive 2013/50/EU of the European Parliament and of the Council of 22 October 2013<sup>5</sup>, Directive 2014/51/EU of the European Parliament and of the Council of 16 April 2014<sup>6</sup> and Regulation (EU) 2017/1129 of the European Parliament and of the Council of 14 June 2017<sup>7</sup>) and Regulation (EU) 2017/1129 of the European Parliament and of the Council of 14 June 2017<sup>8</sup>, hereby make the following regulations:

*Citation and commencement*

1. (1) These Regulations may be cited as the Prospectus (Directive 2003/71/EC) (Amendment) Regulations 2018.

(2) These Regulations shall come into operation on 21 July 2018.

*Interpretation*

2. In these Regulations “Principal Regulations” means the Prospectus (Directive 2003/71/EC) Regulations 2005 (S.I. No. 324 of 2005).

*Amendment of Regulation 8*

3. Regulation 8 of the Principal Regulations is amended—

(a) in paragraph (1), by the substitution of the following subparagraph for subparagraph (h):

“(h) without prejudice to paragraph (5), securities included in an offer where the total consideration for the offer in the European Union is less than €1,000,000,” and

(b) in paragraph (3), by the substitution of “€1,000,000” for “€5,000,000”.

<sup>1</sup>OJ L345, 31.12.2003, p. 64.

<sup>2</sup>OJ L76, 19.3.2008, p. 37.

<sup>3</sup>OJ L327, 11.12.2010, p. 1.

<sup>4</sup>OJ L331, 15.12.2010, p. 120.

<sup>5</sup>OJ L294, 6.11.2013, p. 13.

<sup>6</sup>OJ L153, 22.5.2014, p. 1.

<sup>7</sup>OJ L168, 30.6.2017, p. 12.

<sup>8</sup>OJ L168, 30.6.2017, p. 12.

*Notice of the making of this Statutory Instrument was published in  
“Iris Oifigiúil” of 10th August, 2018.*

*Amendment of Regulation 9*

4. Regulation 9 of the Principal Regulations is amended—

(a) in paragraph (1), by the substitution of the following subparagraph for subparagraph (e):

“(e) without prejudice to Regulation 8(5), an offer of securities with a total consideration in the European Union of less than €5,000,000, which shall be calculated over a period of 12 months, where the offer is not subject to notification in accordance with Regulation 56.”, and

(b) in paragraph (4), by the substitution of “€5,000,000” for “€100,000”.

*Amendment of Regulation 11*

5. Regulation 11 of the Principal Regulations is amended—

(a) in paragraph (1)—

(i) by the substitution of the following subparagraph for subparagraph (a):

“(a) securities fungible with securities already admitted to trading on the same regulated market, provided that they represent, over a period of 12 months, less than 20 per cent of the number of securities already admitted to trading on the same regulated market,”,

(ii) by the substitution of the following subparagraph for subparagraph (g):

“(g) shares resulting from the conversion or exchange of other securities or from the exercise of the rights conferred by other securities, where the resulting shares are of the same class as the shares already admitted to trading on the same regulated market, provided that the resulting shares represent, over a period of 12 months, less than 20 per cent of the number of shares of the same class already admitted to trading on the same regulated market, subject to paragraph (4),”,

(iii) in subparagraph (h), in clause (vii), by the substitution of “disclosure obligations,” for “disclosure obligations.”, and

(iv) by the insertion of the following subparagraph after subparagraph (h):

“(i) securities resulting from the conversion or exchange of other securities, own funds or eligible liabilities by a resolution authority due to the exercise of a power

referred to in Article 53(2), 59(2) or Article 63(1) or (2) of the Bank Recovery and Resolution Directive.”, and

(b) by the insertion of the following paragraphs after paragraph (3):

“(4) The proviso in paragraph (1)(g) shall not apply where—

- (a) a prospectus was drawn up in accordance with EU prospectus law upon the offer to the public or admission to trading on a regulated market of the securities giving access to the shares,
- (b) the securities giving access to the shares were issued before 20 July 2017,
- (c) the shares qualify as Common Equity Tier 1 items, as specified in Article 26 of the Capital Requirements Regulation, of an institution and result from the conversion of Additional Tier 1 instruments issued by that institution due to the occurrence of a trigger event referred to in point (a) of Article 54(1) of that Regulation, or
- (d) the shares qualify as eligible own funds or eligible basic own funds, and result from the conversion of other securities which was triggered for the purposes of fulfilling the obligations to comply with the Solvency Capital Requirement or Minimum Capital Requirement or the group solvency requirement.

(5) In this Regulation—

‘Additional Tier 1 instrument’ shall be construed in accordance with Article 52(1) of the Capital Requirements Regulation;

‘Bank Recovery and Resolution Directive’ means Directive 2014/59/EU of the European Parliament and of the Council of 15 May 2014<sup>9</sup>;

‘Capital Requirements Regulation’ means Regulation (EU) No 575/2013 of the European Parliament and of the Council of 26 June 2013<sup>10</sup>;

‘eligible own funds’ has the same meaning as it has in the Solvency II Directive;

‘eligible basic own funds’ has the same meaning as it has in the Solvency II Directive;

<sup>9</sup>OJ L173, 12.6.2014, p. 190.

<sup>10</sup>OJ L176, 27.6.2013, p.1.

‘group solvency requirement’ has the same meaning as it has in the Solvency II Directive;

‘institution’ has the same meaning as it has in the Capital Requirements Regulation;

‘Minimum Capital Requirement’ has the same meaning as it has in the Solvency II Directive;

‘resolution authority’ has the same meaning as it has in the Bank Recovery and Resolution Directive;

‘Solvency II Directive’ means Directive 2009/138/EC of the European Parliament and of the Council of 25 November 2009<sup>11</sup>;

‘Solvency Capital Requirement’ has the same meaning as it has in the Solvency II Directive.”.



GIVEN under my Official Seal,  
3 August 2018.

PASCHAL DONOHOE,  
Minister for Finance.

<sup>11</sup>OJ L335, 17.12.2009, p. 1.

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