



STATUTORY INSTRUMENTS.

S.I. No. 316 of 2012



TRANSPARENCY (DIRECTIVE 2004/109/EC) (AMENDMENT) (NO. 2)
REGULATIONS 2012

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I, RICHARD BRUTON, Minister for Jobs, Enterprise and Innovation, in exercise of the powers conferred on me by section 3 of the European Communities Act 1972 (No. 27 of 1972) and by section 20 of the Investment Funds, Companies and Miscellaneous Provisions Act 2006 (No. 41 of 2006) (as adapted by the Enterprise, Trade and Innovation (Alteration of Name of Department and Title of Minister) Order 2011 (S.I. No. 245 of 2011)), and for the purpose of giving further effect to Directive 2004/109/EC of the European Parliament and of the Council of 15 December 2004¹ (as amended by Directive 2010/78/EU of the European Parliament and of the Council of 24 November 2010²), hereby make the following regulations:

1. These Regulations may be cited as the Transparency (Directive 2004/109/EC) (Amendment) (No. 2) Regulations 2012.

2. The Transparency (Directive 2004/109/EC) Regulations 2007 (S. I. No. 277 of 2007) are amended—

(a) in Regulation 2—

(i) by inserting the following definitions:

“ ‘Directive 2010/78/EU’ means Directive 2010/78/EU of the European Parliament and of the Council of 24 November 2010²;

‘European Securities and Markets Authority’ means the body established pursuant to Regulation (EU) No 1095/2010;

‘European Systemic Risk Board’ means the body established by Regulation (EU) No 1092/2010 of the European Parliament and of the Council of 24 November 2010³;

‘Regulation (EU) No 1095/2010’ means Regulation (EU) No 1095/2010 of the European Parliament and of the Council of 24 November 2010⁴,”

and

¹OJ No. L 390, 31.12.2004, p. 38.

²OJ No. L 331, 15.12.2010, p. 120.

³OJ No. L 331, 15.12.2010, p. 1.

⁴OJ No. L 331, 15.12.2010, p. 84.

*Notice of the making of this Statutory Instrument was published in
“Iris Oifigiúil” of 14th August, 2012.*

- (ii) by substituting for the definition of “Directive” the following definition:

“ ‘Directive’ means Directive 2004/109/EC of the European Parliament and of the Council of 15 December 2004¹ as amended by Directive 2010/78/EU of the European Parliament and of the Council of 24 November 2010;”,

- (b) in Regulation 11, by inserting after paragraph (1) the following paragraph:

“(1A) The Bank shall inform the European Securities and Markets Authority, as soon as possible, of any exemption granted under paragraph (1).”,

- (c) in Regulation 37, paragraph (8), by inserting “, the European Securities and Markets Authority in accordance with Article 28(4) of Regulation (EU) No 1095/2010” after “the Commission”,

- (d) in Regulation 57, by inserting “and to the European Securities and Markets Authority” after “home Member State”,

- (e) in Regulation 58, paragraph (2), by inserting “and the European Securities and Markets Authority” after “the Commission”,

- (f) in Regulation 75—

- (i) by substituting the following for paragraph (2):

“(2) In particular and without prejudice to its obligations arising from section 33AK(10) of the Central Bank Act 1942 or section 31 of the Companies (Auditing and Accounting) Act 2003, as the case may be, nothing in any law shall prevent the Bank or IAASA from exchanging confidential information with, or from transmitting information to, the competent authorities referred to in paragraph 1(a), the European Securities and Markets Authority and the European Systemic Risk Board. Information thus exchanged shall be covered by the obligation of professional secrecy to which the persons employed or formerly employed by the competent authorities receiving the information are subject.”, and

- (ii) by inserting after paragraph (3) the following paragraph:

“(3A) The Bank or IAASA, as the case may be, shall notify the European Securities and Markets Authority of any cooperation agreements under paragraph (3).”, and

- (iii) by inserting after paragraph (5) the following paragraph:

¹OJ No. L 390, 31.12.2004, p. 38.

“(6) The Bank and IAASA may each refer to the European Securities and Markets Authority situations where a request for cooperation under paragraph (1) has been rejected or has not been acted upon within a reasonable time.”,

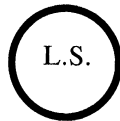
and

(g) by inserting after Regulation 75 the following Regulation:

“Cooperation with the European Securities and Markets Authority.

75A. (1) The Bank and IAASA shall each cooperate with the European Securities and Markets Authority for the purposes of the Directive, in accordance with Regulation (EU) No 1095/2010.

(2) The Bank and IAASA shall each without delay provide the European Securities and Markets Authority with all information necessary to carry out its duties in accordance with Article 35 of Regulation (EU) No 1095/2010.”.



GIVEN under my Official Seal,
10 August 2012.

RICHARD BRUTON,
Minister for Jobs, Enterprise and Innovation.

EXPLANATORY NOTE

(This note is not part of the instrument and does not purport to be a legal interpretation)

These Regulations give effect to Article 7 of Directive 2010/78/EU of the European Parliament and of the Council of 24 November 2010 amending Directive 2004/109/EC on the harmonisation of transparency requirements in relation to information about issuers whose securities are admitted to trading on a regulated market.

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