



STATUTORY INSTRUMENTS.

S.I. No. 286 of 2007

EUROPEAN COMMUNITIES (ADMISSIONS TO LISTING AND
MISCELLANEOUS PROVISIONS) REGULATIONS 2007

(Prn. A7/1116)

EUROPEAN COMMUNITIES (ADMISSIONS TO LISTING AND MISCELLANEOUS PROVISIONS) REGULATIONS 2007

I, MICHEÁL MARTIN, Minister for Enterprise, Trade and Employment, 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 effect to Directive 2001/34/EC of the European Parliament and of the Council of 28 May 2001¹, as amended by Directive 2003/71/EC of the European Parliament and of the Council of 4 November 2003², and Directive 2004/109/EC of the European Parliament and of the Council of 15 December 2004³ and giving further effect to Article 32(5) of the last-mentioned Directive, hereby make the following regulations:

Citation, commencement and construction

1. (1) These Regulations may be cited as the European Communities (Admissions to Listing and Miscellaneous Provisions) Regulations 2007.

(2) These Regulations shall come into operation on 13 June 2007.

(3) These Regulations shall be read as one with the Companies Acts.

Interpretation

2. (1) In these Regulations—

“admission to official listing” means the admission of securities to the Official List of the Irish Stock Exchange and “official listing” shall be construed accordingly;

“Bank” means the Central Bank and Financial Services Authority of Ireland;

“Council” means the Board of the Irish Stock Exchange;

“Directive” means Directive 2001/34/EC of the European Parliament and of the Council of 28 May 2001 on the admission of securities to official stock exchange listing and on information to be published on those securities, as amended by 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, and further amended by the Transparency (Regulated Markets) Directive;

“Irish Stock Exchange” has the meaning given to it by section 3(1) of the Stock Exchange Act 1995 (No. 9 of 1995);

¹ O.J. No. L 184, 6.7.2001, pp.1-66

² O.J. No. L 345, 31.12.2003, pp 64-89

³ O.J. No. L 390, 31.12.2004, pp 38-57

Notice of the making of this Statutory Instrument was published in “Iris Oifigiúil” of 19th June, 2007.

“listing rules” means the rules of the Irish Stock Exchange relating to the admission to the Official List of the Irish Stock Exchange;

“Minister” means the Minister for Enterprise, Trade and Employment;

“Transparency (Regulated Markets) Directive” means Directive 2004/109/EC of the European Parliament and of the Council of 15 December 2004 on the harmonisation of transparency requirements in relation to information about issuers whose securities are admitted to trading on a regulated market and amending Directive 2001/34/EC;

“transparency (regulated markets) law” has the same meaning as it has in the Investment Funds, Companies and Miscellaneous Provisions Act 2006 (No. 41 of 2006).

(2) A reference in these Regulations to an Article or other provision of the Directive shall be construed as a reference to that Article or that provision as amended.

(3) A word or expression that is used in these Regulations and is also used in the Directive shall have in these Regulations the same meaning as it has in the Directive.

Application of Directive

3. (1) Subject to the provisions of these Regulations, the requirements of the Directive relating to the admission of securities to official listing shall have effect and be applied accordingly.

(2) The Irish Stock Exchange may make the admission of securities to official listing subject to more stringent conditions than those set out in Articles 42 to 63 of the Directive or to additional conditions:

Provided that those more stringent or additional conditions—

- (i) apply generally for all such issuers or for individual classes of such issuers,
- (ii) are published before application for admission of such securities is made, and
- (iii) are not otherwise inconsistent with, or imposed in a manner inconsistent with, any provision of the Directive taking account of the prohibitions provided for in Article 7 and Articles 42 to 63 of the Directive.

(3) The Irish Stock Exchange may also make the issuers of securities admitted to official listing subject to additional obligations:

Provided that those additional obligations—

- (i) apply generally for all such issuers or for individual classes of such issuers,
- (ii) do not—
 - (I) relieve a person of obligations arising under, or
 - (II) make provision for specific matters dealt with by,
 - transparency (regulated markets) law (including any more stringent requirements applied on foot of the Transparency (Directive 2004/109/EC) Regulations 2007 by the Bank (being the central competent administrative authority designated for the purposes of the Transparency (Regulated Markets) Directive)), and
- (iii) are not inconsistent with, or imposed in a manner inconsistent with, any provision of the Directive.

(4) For the purpose of achieving the result specified in paragraph (5), the Irish Stock Exchange shall consult with the Bank before it makes issuers generally or any individual class of issuer subject to additional obligations under paragraph (3).

(5) The result mentioned in paragraph (4) is ensuring that the requirements of—

- (a) these Regulations (including any more stringent or additional conditions under paragraph (2) and any additional obligations under paragraph (3)), and
- (b) transparency (regulated markets) law (including any more stringent requirements referred to paragraph (ii) of the proviso to paragraph (3)),

operate in a manner that is consistent with one another.

(6) Nothing in these Regulations shall affect or derogate from any power of the Minister for Finance under the Stock Exchange Act 1995.

Limited discretions conferred on Member States by Directive

4. The provisions of the Schedule have effect in consequence of the exercise by the State of the discretions conferred on each Member State by the Directive as to its implementation.

Offence

5. (1) The restrictions referred to in Article 107(1) of the Directive shall apply to all persons employed or formerly employed by the Irish Stock Exchange in the performance of its functions as competent authority.

(2) Any person who fails to comply with paragraph (1) or who publishes any information required to be published by the Directive which is false or misleading in a material respect knowing the information to be so false or misleading or being reckless as to whether it is so false or misleading shall be guilty of an offence.

(3) A person guilty of an offence under paragraph (2) shall be liable on summary conviction to a fine not exceeding €5,000.

(4) Where an offence under paragraph (2) is committed by a body corporate and is proved to have been committed with the consent, connivance or approval of or to have been attributable to the wilful neglect on the part of any person, being a director, manager, secretary or other officer of the body corporate or a person who was purporting to act in any such capacity, that person as well as the body corporate shall be guilty of an offence and is liable to be proceeded against and punished as if he or she was guilty of the first-mentioned offence

(5) Proceedings in relation to an offence under paragraph (2) may be brought and prosecuted by the Director of Public Prosecutions or the Director of Corporate Enforcement.

Competent authority for purposes of Directive

6. (1) The Irish Stock Exchange shall be the competent authority for the purposes of the Directive and shall have all the powers required to be conferred on, or which the State is permitted to confer on, the competent authority by the Directive.

(2) The Irish Stock Exchange may arrange for the discharge of its functions as competent authority by any committee, sub-committee, officer or employee of the Irish Stock Exchange and nothing in this Regulation shall prevent the Irish Stock Exchange from being assisted in, or advised on, the discharge of these functions by any committee, sub-committee, officer or employee of the Council.

Liability of competent authority

7. (1) Subject to paragraph (2), neither the Irish Stock Exchange nor any person referred to in Regulation 6(2) shall be liable in damages by reason only of non-compliance with or contravention of any obligation imposed by or by virtue of these Regulations, nor shall the Exchange or that person be so liable in respect of anything done or omitted to be done by it or him or her in connection with the performance by the Exchange of its functions as competent authority.

(2) Paragraph (1) does not apply if the act or omission complained of was done or made in bad faith.

(3) No transaction shall be void or voidable by reason only of the fact that it was entered into in contravention of, or otherwise than in conformity with, these Regulations.

Office of competent authority

8. (1) For the purposes of the performance of its functions as competent authority pursuant to these Regulations, the Irish Stock Exchange shall maintain and administer an office in the State.

(2) The Irish Stock Exchange shall notify the Minister of the address and of any change in the address of such office.

(3) Any document may be served on the competent authority in connection with the discharge by it of its functions under these Regulations by leaving it at, or by sending it by post to, the office maintained by the Irish Stock Exchange pursuant to paragraph (1).

Application to High Court

9. (1) Where, in the performance of its functions under these Regulations, the competent authority refuses an application for admission to official listing, or where it discontinues such a listing, the issuer of the securities may apply to the High Court in a summary manner to have such refusal or discontinuation reviewed.

(2) On the hearing of an application under this Regulation, the High Court shall confirm the decision of the competent authority unless it is satisfied that the procedures specified by, or the requirements of, these Regulations or the Directive have not been complied with in any material respect.

(3) In any case where the High Court is satisfied that the procedures specified by, or the requirements of, these Regulations or the Directive have not been complied with in any material respect, the High Court may set aside the decision of the competent authority and in such a case shall remit the matter to the competent authority which shall thereupon reconsider the matter and make a further decision in accordance with such procedures and requirements.

Annual report of competent authority

10. The Irish Stock Exchange shall report annually to the Minister on the performance of its functions as competent authority in the State under the Directive and under these Regulations and, in particular, by means of such a report, shall inform the Minister of—

- (a) any amendment of the listing rules or revision of its procedures pursuant to the Directive or otherwise, including—
 - (i) any conditions imposed for the admission of securities to official listing which are more stringent than, or additional to, the requirements for admission to official listing, and
 - (ii) any additional obligations imposed on the issuers of securities admitted to official listing,
- (b) the nature of all securities which are admitted to official listing,

- (c) the refusal of any application for admission to official listing,
- (d) the suspension or discontinuation of any official listing, and
- (e) any special arrangements which have been made with other Member States pursuant to Article 13 of the Directive.

Saving of other duties of issuers

11. For the avoidance of doubt, it is declared that nothing in these Regulations shall affect any obligation on issuers of securities admitted to official listing imposed by or under any other enactment.

Revocations

12. The following Regulations are revoked:

- (a) the European Communities (Stock Exchange) Regulations 1984 (S.I. No. 282 of 1984); and
- (b) the European Communities (Stock Exchange) (Amendment) Regulations 1995 (S.I. No. 311 of 1995).

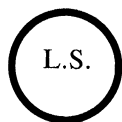
Repeals

13. Sections 89 to 96 of the Companies Act 1990 (No. 33 of 1990) are repealed.

SCHEDULE

PROVISIONS CONSEQUENT ON EXERCISE OF CERTAIN LIMITED DISCRETIONS BY STATE
IN RELATION TO DIRECTIVE'S IMPLEMENTATION

1. These Regulations shall not apply to—
 - (a) units issued by collective investment undertakings other than of the closed-end type, or
 - (b) securities issued by a Member State or by its regional or local authorities.
2. The conditions and obligations referred to in Article 10 of the Directive shall not apply to the securities issued by persons referred to in that Article.
3. Shares may be admitted to official listing where the condition referred to in Article 43 (1) of the Directive is not fulfilled, provided that the requirements of Article 43(2) of the Directive are satisfied.
4. Debt securities may be admitted to official listing where the condition referred to in Article 58 (1) of the Directive is not fulfilled, provided that the requirements of Article 58(2) of the Directive are satisfied.
5. Convertible or exchangeable debentures and debentures with warrants may be admitted to official listing if the requirement in Article 59(2) of the Directive is satisfied.



GIVEN under my Official Seal,
13 June 2007

MICHEÁL MARTIN,
Minister for Enterprise, Trade and Employment.

EXPLANATORY NOTE

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

These regulations replace the European Communities (Stock Exchange) Regulations 1984 (S.I. No. 282 of 1984), as amended over the years, and include amendments arising on foot of the implementation into Irish law of 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. These Regulations also repeal Sections 89 to 96 of the Companies Act 1990 as a consequence of Article 32(5) of Directive 2004/109/EC.

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(Teil: 01 - 6476834/35/36/37; Fax: 01 - 6476843)
nó trí aon díoltóir leabhar.

DUBLIN
PUBLISHED BY THE STATIONERY OFFICE
To be purchased directly from the
GOVERNMENT PUBLICATIONS SALE OFFICE
SUN ALLIANCE HOUSE, MOLESWORTH STREET, DUBLIN 2
or by mail order from
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(Tel: 01-6476834/35/36/37; Fax: 01-6476843)
or through any bookseller.

€3.05

ISBN 1-4064-3191-5



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Wt. (B25425). 285. 6/07. Cahill. Gr. 30-15.