



STATUTORY INSTRUMENTS.

**S.I. No. 317 of 2012**



PROSPECTUS (DIRECTIVE 2003/71/EC) (AMENDMENT) (NO. 2)  
REGULATIONS 2012

S.I. No. 317 of 2012

PROSPECTUS (DIRECTIVE 2003/71/EC) (AMENDMENT) (NO. 2)  
REGULATIONS 2012

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 46 of the Investment Funds, Companies and Miscellaneous Provisions Act 2005 (No. 12 of 2005) (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 2003/71/EC of the European Parliament and of the Council of 4 November 2003<sup>1</sup> (as amended by Directive 2010/78/EU of the European Parliament and of the Council of 24 November 2010<sup>2</sup> and by Directive 2010/73/EU of the European Parliament and of the Council of 24 November 2010<sup>3</sup>), hereby make the following regulations:

1. These Regulations may be cited as the Prospectus (Directive 2003/71/EC) (Amendment) (No. 2) Regulations 2012.

2. The Prospectus (Directive 2003/71/EC) Regulations 2005 (S.I. No. 324 of 2005) are amended—

(a) in Regulation 1, in paragraph (3), by deleting “1963 to 2005”,

(b) 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 2010<sup>2</sup>;”,

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

“ ‘Regulation (EU) No. 1095/2010’ means Regulation (EU) No. 1095/2010 of the European Parliament and of the Council of 24 November 2010<sup>4</sup>;”,

and

<sup>1</sup>OJ No. L 345, 31.12.2003, p. 64.

<sup>2</sup>OJ No. L 331, 15.12.2010, p. 120.

<sup>3</sup>OJ No. L 327, 11.12.2010, p. 1.

<sup>4</sup>OJ 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 2003/71/EC of the European Parliament and of the Council of 4 November 2003<sup>1</sup> as amended by Directive 2010/78/EU and by Directive 2010/73/EU of the European Parliament and of the Council of 24 November 2010<sup>3</sup>;”,

- (c) in Regulation 35, by inserting after paragraph (2) the following paragraph:

“(2A) The Bank shall notify the European Securities and Markets Authority of the approval of the prospectus and any supplement thereto at the same time as that approval is notified to the applicant. The Bank shall at the same time provide the European Securities and Markets Authority with a copy of the prospectus and any supplement thereto.”,

- (d) in Regulation 40—

(i) in paragraph (1), by substituting “The Bank may, subject to the prior notification to the European Securities and Markets Authority and” for “The Bank may,” and

- (ii) by inserting after paragraph (2) the following paragraph:

“(3) Article 28(4) of Regulation (EU) No. 1095/2010 shall not apply to the transfer of the approval of the prospectus in accordance with this Regulation.”,

- (e) in Regulation 44, by inserting after paragraph (3) the following paragraph:

“(4) The Bank shall make accessible to the European Securities and Markets Authority any prospectus filed in accordance with subparagraph (a) of paragraph (1) of Regulation 38.”,

- (f) in Regulation 51, in paragraph (5), by substituting “the European Securities and Markets Authority or the competent authority” for “the competent authority”,

- (g) in Regulation 54, by inserting after paragraph (3) the following paragraph:

“(4) The Bank shall publish on its website a list of certificates of approval of prospectuses and any supplements thereto, which are notified to it by the competent authority of a Home Member State in accordance with Article 18(1) of the Directive or EU Prospectus Law,

<sup>1</sup>OJ No. L 345, 31.12.2003, p. 64.

<sup>3</sup>OJ No. L 327, 11.12.2010, p. 1.

including, if applicable, a hyperlink to those documents published on the website of the competent authority of the Home Member State, on the website of the issuer, or on the website of the regulated market. The Bank shall keep the published list up-to-date and retain each item on the list for a period of at least 12 months.”,

- (h) in Regulation 56, by inserting after paragraph (2) the following paragraph:

“(2A) In complying with a request under paragraph (1), the Bank shall also provide to the European Securities and Markets Authority a copy of the certificate referred to in Regulation 57 and a copy of the prospectus.”,

- (i) in Regulation 61, by inserting after paragraph (4) the following paragraph:

“(5) The Bank may refer to the European Securities and Markets Authority situations where a request for cooperation under this Regulation, in particular to exchange information, has been rejected or has not been acted upon within a reasonable time.”,

- (j) in Regulation 78—

- (i) by inserting after paragraph (1) the following paragraphs:

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

(1B) The Bank shall 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.”,

- (ii) in paragraph (2), by substituting “Other than in order to meet its obligations under paragraph (1A) or (1B) above, the Bank” for “The Bank”,

- (k) in Regulation 79, in paragraph (8), by inserting “, the European Securities and Markets Authority” after “the Commission”,

- (l) in Regulation 89, by inserting “and the European Securities and Markets Authority” after “the Home Member State”, and

- (m) in Regulation 90—

- (i) in paragraph (1), by inserting “and the European Securities and Markets Authority” before “, shall take all appropriate measures”, and

(ii) in paragraph (2), by inserting “and the European Securities and Markets Authority” after “the Commission.”.

3. The Prospectus (Directive 2003/71/EC) (Amendment) Regulations 2005 (S.I. No. 324 of 2005) are amended in Regulation 2(1) by inserting between the definitions of “credit institution” and “Directive” the following definition:

“ ‘delegated acts’ means any acts directly applicable in consequence of the Directive and, without prejudice to the generality of the foregoing, includes the Prospectus Regulation;”.



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.)*

Regulations 1 and 2 of these Regulations give effect to Article 5 of Directive 2010/78/EU of the European Parliament and of the Council of 24 November 2010 amending Directive 2003/71/EC on the prospectus to be published when securities are offered to the public or admitted to trading on a regulated market.

Regulation 3 relates to Directive 2010/73/EU of the European Parliament and of the Council of 24 November 2010 which also amended Directive 2003/71/EC.

BAILE ÁTHA CLIATH  
ARNA FHOILSIÚ AG OIFIG AN tSOLÁTHAIR  
Le ceannach díreach ón  
OIFIG DHÍOLTA FOILSEACHÁN RIALTAIS,  
TEACH SUN ALLIANCE, SRÁID THEACH LAIGHEAN, BAILE ÁTHA CLIATH 2,  
nó tríd an bpost ó  
FOILSEACHÁIN RIALTAIS, AN RANNÓG POST-TRÁCHTA,  
AONAD 20 PÁIRC MIONDÍOLA COIS LOCHA, CLÁR CHLAINNE MHUIRIS,  
CONTAE MHAIGH EO,  
(Teil: 01 - 6476834 nó 1890 213434; Fax: 094 - 9378964 nó 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  
GOVERNMENT PUBLICATIONS, POSTAL TRADE SECTION,  
UNIT 20 LAKESIDE RETAIL PARK, CLAREMORRIS, CO. MAYO,  
(Tel: 01 - 6476834 or 1890 213434; Fax: 094 - 9378964 or 01 - 6476843)  
or through any bookseller.

---

€2.54

