

LAW ON TRANSPARENCY REQUIREMENTS FOR ISSUERS

Law of 11 January 2008 on transparency requirements in relation to information about issuers whose securities are admitted to trading on a regulated market and transposing:

- 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

- Article 9 of Regulation (EC) No 1606/2002 of the European Parliament and of the Council of 19 July 2002 on the application of international accounting standards and amending

- the Law of 23 December 1998 establishing a financial sector supervisory commission (“Commission de surveillance du secteur financier”), as amended.
(Mém. A 2008, No 5)

as amended by

- the Law of 18 December 2009 concerning the audit profession and:
 - transposing Directive 2006/43/EC of the European Parliament and of the Council of 17 May 2006 on statutory audits of annual accounts and consolidated accounts amending Council Directives 78/660/EEC and 83/349/EEC and repealing Council Directive 84/253/EEC,
 - on the organisation of the audit profession,
 - amending divers other statutory provisions, and
 - repealing the Law of 28 June 1984 on the organisation of the profession of company auditors, as amended
- (Mém. A 2010, No 22)

- the Law of 28 April 2011
 - transposing Directive 2009/111/EC of the European Parliament and of the Council of 16 September 2009 amending Directives 2006/48/EC, 2006/49/EC and 2007/64/EC as regards banks affiliated to central institutions, certain own funds items, large exposures, supervisory arrangements, and crisis management;
 - transposing for credit institutions Directive 2009/49/EC of the European Parliament and of the Council of 18 June 2009 amending Council Directives 78/660/EEC and 83/349/EEC as regards certain disclosure requirements for medium-sized companies and the obligation to draw up consolidated accounts;
 - completing the transposition of Directive 2009/14/EC of the European Parliament and of the Council of 11 March 2009 amending Directive 94/19/EC on deposit-guarantee schemes and the payout delay;
 - amending the Law of 5 April 1993 on the financial sector, as amended;
 - amending the Law of 17 June 1992 relating to the accounts of credit institutions, as amended;
 - amending the Law of 23 December 1998 establishing a financial sector supervisory commission (“Commission de surveillance du secteur financier”);
 - amending the Law of 31 May 1999 governing the domiciliation of companies;
 - amending the Law of 13 July 2007 on markets in financial instruments, as amended;
 - amending the Law of 11 January 2008 on transparency requirements for issuers of securities;
 - amending the Law of 10 November 2009 on payment services
- (Mém. A 2011, No 81)

- the Law of 3 July 2012
 - transposing Directive 2010/73/EU of the European Parliament and of the Council of 24 November 2010 amending Directives 2003/71/EC on the prospectus to be published when securities are offered to the public or admitted to trading and 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;

- amending the Law of 10 July 2005 on prospectuses for securities;
- amending the Law of 11 January 2008 on transparency requirements in relation to information about issuers whose securities are admitted to trading on a regulated market

(Mém. A 2012, No 136)

- the Law of 21 December 2012 transposing Directive 2010/78/EU of the European Parliament and of the Council of 24 November 2010 amending Directives 98/26/EC, 2002/87/EC, 2003/6/EC, 2003/41/EC, 2003/71/EC, 2004/39/EC, 2004/109/EC, 2005/60/EC, 2006/48/EC, 2006/49/EC and 2009/65/EC in respect of the powers of the European Supervisory Authority (European Banking Authority), the European Supervisory Authority (European Insurance and Occupational Pensions Authority) and the European Supervisory Authority (European Securities and Markets Authority) and amending:

1. the Law of 6 December 1991 on the insurance sector, as amended;
2. the Law of 5 April 1993 on the financial sector, as amended;
3. the Law of 23 December 1998 establishing a financial sector supervisory commission ("Commission de surveillance du secteur financier"), as amended;
4. the Law of 22 March 2004 on securitisation, as amended;
5. the Law of 15 June 2004 relating to the Investment company in risk capital (SICAR), as amended;
6. the Law of 10 July 2005 on prospectuses for securities, as amended;
7. the Law of 13 July 2005 on institutions for occupational retirement provision in the form of pension savings companies with variable capital (SEPCAVs) and pension savings associations (ASSEPs), as amended;
8. the Law of 9 May 2006 on market abuse, as amended;
9. the Law of 13 February 2007 relating to specialised investment funds, as amended;
10. the Law of 13 July 2007 on markets in financial instruments, as amended;
11. the Law of 11 January 2008 on transparency requirements for issuers of securities, as amended;
12. the Law of 10 November 2009 on payment services, as amended;
13. the Law of 17 December 2010 relating to undertakings for collective investment

(Mém. A 2012, No 275)

- the Law of 10 May 2016

1. transposing 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;
2. transposing Article 1 of Directive 2014/51/EU of the European Parliament and of the Council of 16 April 2014 amending Directives 2003/71/EC and 2009/138/EC and Regulations (EC) No 1060/2009, (EU) No 1094/2010 and (EU) No 1095/2010 in respect of the powers of the European Supervisory Authority (European Insurance and Occupational Pensions Authority) and the European Supervisory Authority (European Securities and Markets Authority);
3. amending the Law of 11 January 2008 on transparency requirements for issuers of securities, as amended;
4. amending the Law of 10 July 2005 on prospectuses for securities, as amended.

(Mém. A 2016, No 89)

- the Law of 23 December 2016 on market abuse and:

1. implementing Regulation (EU) No 596/2014 of the European Parliament and of the Council of 16 April 2014 on market abuse (market abuse regulation) and repealing Directive 2003/6/EC of the European Parliament and of the Council and Commission Directives 2003/124/EC, 2003/125/EC and 2004/72/EC;
2. transposing:
 - (a) Directive 2014/57/EU of the European Parliament and of the Council of 16 April 2014 on criminal sanctions for market abuse (market abuse directive);

- (b) Commission Implementing Directive (EU) 2015/2392 of 17 December 2015 on Regulation (EU) No 596/2014 of the European Parliament and of the Council as regards reporting to competent authorities of actual or potential infringements of that Regulation;
- 3. amending the Law of 11 January 2008 on transparency requirements for issuers, as amended; and
- 4. repealing the Law of 9 May 2006 on market abuse, as amended. (Mém. A 2016, No 279)
- the Law of 27 February 2018 implementing Regulation (EU) 2015/751 of the European Parliament and of the Council of 29 April 2015 on interchange fees for card-based payment transactions, and amending:
 - 1. the Law of 5 April 1993 on the financial sector, as amended;
 - 2. the Law of 23 December 1998 establishing a financial sector supervisory commission ("Commission de surveillance du secteur financier"), as amended;
 - 3. the Law of 5 August 2005 on financial collateral arrangements, as amended;
 - 4. the Law of 11 January 2008 on transparency requirements for issuers, as amended;
 - 5. the Law of 10 November 2009 on payment services, as amended;
 - 6. the Law of 17 December 2010 relating to undertakings for collective investment, as amended;
 - 7. the Law of 12 July 2013 on alternative investment fund managers, as amended;
 - 8. the Law of 7 December 2015 on the insurance sector, as amended;
 - 9. the Law of 18 December 2015 on the failure of credit institutions and certain investment firms, as amended, and
 - 10. the Law of 23 December 2016 on market abuse
 (Mém. A 2018, No 150)

Chapter 1 - Definitions and Scope

Article 1. Definitions

(1)* For the purposes of this law the following definitions shall apply:

- (1) "CSSF"¹ means the Commission de surveillance du secteur financier. The CSSF is the independent competent authority in Luxembourg;
- (2) "shareholder" means any natural person or legal entity governed by private or public law, who holds, directly or indirectly:
 - (a) shares of the issuer in its own name and on its own account;
 - (b) shares of the issuer in its own name, but on behalf of another natural person or legal entity;
 - (c) depository receipts, in which case the holder of the depository receipt shall be considered as the shareholder of the underlying shares represented by the depository receipts;

"(3) "issuer" means a natural person, or a legal entity governed by private or public law, including a State, whose securities are admitted to trading on a regulated market.

In the case of depository receipts representing securities admitted to trading on a regulated market, the "issuer" means the issuer of the securities represented, whether or not those securities are admitted to trading on a regulated market;"²

- (4) "controlled undertaking" means any undertaking
 - (a) in which a natural person or legal entity has a majority of the voting rights; or
 - (b) of which a natural person or legal entity has the right to appoint or remove a majority of the members of the administrative, management or supervisory body and is at the same time a shareholder in, or member of, the undertaking in question; or
 - (c) of which a natural person or legal entity is a shareholder or member and alone controls a majority of the shareholders' or members' voting rights, respectively, pursuant to an agreement entered into with other shareholders or members of the undertaking in question; or
 - (d) over which a natural person or legal entity has the power to exercise, or actually exercises, dominant influence or control.

For the purposes of (b), the holder's rights in relation to voting, appointment and removal shall include the rights of any other undertaking controlled by the shareholder and those of any natural person or legal entity acting, albeit in its own name, on behalf of the shareholder or of any other undertaking controlled by the shareholder.

- (5) "investment firm" means any person as defined in Article 4(1)(1) of Directive 2004/39/EC of the European Parliament and of the Council of 21 April 2004 on markets in financial instruments. In Luxembourg, these are the persons referred to in Part I, Chapter 2, section 2, subsection 1 of the Law of 5 April 1993 on the financial sector, as amended.
- (6) "credit institution" means any person as defined in Article 4(1) of Directive 2006/48/EC of the European Parliament and of the Council of 14 June 2006 relating to the taking up and pursuit of the business of credit institutions (recast). In Luxembourg, these are the persons

* Numbering of paragraph has been added as a consequence of Article 1, point 4 of the Law of 10 May 2016

¹ Law of 3 July 2012, the term "Commission" is replaced by "CSSF".

² Law of 10 May 2016

whose activities are covered by the definition set out in the Law of 5 April 1993 on the financial sector, as amended.

- (7) "Member State" means a Member State of the European Union. The States that are contracting parties to the Agreement of the European Economic Area (EEA) other than the Member States of the European Union, within the limits set forth by this agreement and related acts are considered as equivalent to Member States of the European Union.
- (8) "host Member State" means a Member State in which securities are admitted to trading on a regulated market, if different from the home Member State.
- (9) "home Member State" means
 - (a) in the case of an issuer of debt securities the denomination per unit of which is less than EUR 1,000 or an issuer of shares:
 - where the issuer is incorporated in a Member State, the Member State in which it has its registered office;
 - "where the issuer is incorporated in a third country, the Member State chosen by the issuer from amongst the Member States where its securities are admitted to trading on a regulated market. The choice of home Member State shall remain valid unless the issuer has chosen a new home Member State under point (c) and has disclosed the choice in accordance with the second subparagraph of this point (9)."³

The definition of home Member State shall be applicable to debt securities in a currency other than Euro, provided that the value of such denomination per unit is, at the date of the issue, less than EUR 1,000, unless it is nearly equivalent to EUR 1,000;

- (b) "for any issuer not covered by point (a), the Member State chosen by the issuer from among the Member State in which the issuer has its registered office, where applicable, and those Member States where its securities are admitted to trading on a regulated market. The issuer may choose only one Member State as its home Member State. Its choice shall remain valid for at least three years unless its securities are no longer admitted to trading on any regulated market or unless the issuer becomes covered by points (a) or (c) during the three-year period;"⁴

(Law of 10 May 2016)

"(c) for an issuer whose securities are no longer admitted to trading on a regulated market in its home Member State as defined by the second indent of point (a) or by point (b) but instead are admitted to trading in one or more other Member States, such new home Member State as the issuer may choose from amongst the Member States where its securities are admitted to trading on a regulated market and, where applicable, the Member State where the issuer has its registered office."

(Law of 10 May 2016)

"An issuer shall disclose its home Member State as referred to in points (a), (b) or (c) in accordance with Articles 19 and 20. In addition, an issuer shall disclose its home Member State to the competent authority of the Member State where it has its registered office, where applicable, to the competent authority of the home Member State and to the competent authorities of all host Member States.

In the absence of disclosure by the issuer of its home Member State as defined by the second indent of point (a) or by point (b) within a period of three months from the date the issuers' securities are first admitted to trading on a regulated market, the home Member State shall be the Member State where the issuer's securities are admitted to trading on a regulated market. Where the issuer's securities are admitted to trading on regulated

³ Law of 10 May 2016

⁴ Law of 10 May 2016

markets situated or operating within more than one Member State, those Member States shall be the issuer's home Member States until a subsequent choice of a single home Member State has been made and disclosed by the issuer.

For an issuer whose securities are already admitted to trading on a regulated market and whose choice of home Member State as referred to in the second indent of point (a) or in point (b) has not been disclosed prior to 27 November 2015, the period of three months shall start on 27 November 2015.

An issuer that has made a choice of a home Member State as referred to in the second indent of point (a) or in point (b) or (c) and has communicated that choice to the competent authorities of the home Member State by 27 November 2015 shall be exempted from the requirement under the second subparagraph of this point (9), unless such issuer chooses another home Member State after 27 November 2015."

- (10) "regulated information" means all information which the issuer, or any other person who has applied for the admission of securities to trading on a regulated market without the issuer's consent, is required to disclose under this law as well as "under Articles 17 and 19 of Regulation (EU) No 596/2014 of the European Parliament and of the Council of 16 April 2014 on market abuse (market abuse regulation) and repealing Directive 2003/6/EC of the European Parliament and of the Council and Commission Directives 2003/124/EC, 2003/125/EC and 2004/72/EC"⁵;
- (11) "regulated market" means any market as defined in Article 4(1)(14) of Directive 2004/39/EC of the European Parliament and of the Council of 21 April 2004 on markets in financial instruments, i.e.: a multilateral system operated and/or managed by a market operator, which brings together or facilitates the bringing together of multiple third-party buying and selling interests in financial instruments – in the system and in accordance with its non-discretionary rules – in a way that results in a contract, in respect of the financial instruments admitted to trading under its rules and/or systems, and which is authorised and functions regularly and in accordance with the provisions of Title III of Directive 2004/39/EC of the European Parliament and of the Council of 21 April 2004 on markets in financial instruments. Such markets are registered on the list which the European Commission has to publish on its website in accordance with Article 47 of Directive 2004/39/EC of the European Parliament and of the Council of 21 April 2004 on markets in financial instruments;
- (12) "collective investment undertaking other than the closed-end type" means Fonds commun de placement, unit trusts and investment companies:
 - (a) the object of which is the collective investment of capital provided by the public, and which operate on the principle of risk spreading; and
 - (b) the units of which are, at the request of the holder of such units, repurchased or redeemed, directly or indirectly, out of the assets of those undertakings;
- (13) "units of a collective investment undertaking" means securities issued by a collective investment undertaking and representing rights of the participants in such an undertaking over its assets;
- (14) "management company" means a company as defined in Article 1(a)(2) of Council Directive 85/611/EEC of 20 December 1985 on the coordination of laws, regulations and administrative provisions relating to undertakings for collective investment in transferable securities (UCITS), as amended;
- (15) "market maker" means a person who holds himself out on the financial markets on a continuous basis as being willing to deal on own account by buying and selling financial instruments as defined in Article 4(17) of Directive 2004/39/EC of the European Parliament

⁵ Law of 23 December 2016

and of the Council of 21 April 2004 on markets in financial instruments, against his proprietary capital at prices defined by him;

(16) "debt securities" means bonds or other forms of transferable securitised debts, with the exception of securities which are equivalent to shares in companies or which, if converted or if the rights conferred by them are exercised, give rise to a right to acquire shares or securities equivalent to shares;

(17) "securities" means classes of securities which are negotiable on the capital market (with the exception of instruments of payment) such as:

(a) shares in companies and other securities equivalent to shares in companies, partnerships or other entities, and depositary receipts representing shares;

(b) bonds or other forms of securitised debt, including depositary receipts representing such securities;

(c) any other securities giving the right to acquire or sell any such transferable securities or giving rise to a cash settlement, determined by reference to transferable securities, currencies, interest rates or yields, commodities or other indices or measures;

as defined in Article 4(1)(18) of Directive 2004/39/EC of the European Parliament and of the Council of 21 April 2004 on markets in financial instruments with the exception of those classes of instruments which are normally dealt in on the money market, such as treasury bills, certificates of deposit and commercial papers and excluding instruments of payment, as defined in Article 4(1)(19) of Directive 2004/39/EC of the European Parliament and of the Council of 21 April 2004 on markets in financial instruments having a maturity of less than 12 months;

(18) "securities issued in a continuous or repeated manner" means debt securities of the same issuer on tap or at least two separate issues of securities of a similar type and/or class.

(19) "electronic means" are means of electronic equipment for the processing (including digital compression), storage and transmission of data, employing wires, radio, optical technologies, or any other electromagnetic means.

(Law of 10 May 2016)

"(20) "formal agreement" means an agreement which is binding under the applicable law."

(Law of 10 May 2016)

"(2) Any reference to legal entities in this law shall be understood as including registered business associations without legal personality and trusts."

Article 2. Scope

(1) This law establishes requirements in relation to the disclosure of periodic and ongoing information about issuers of securities from the moment those securities are admitted to trading on a regulated market situated or operating within a Member State.

(2) This law shall not apply to units issued by collective investment undertakings other than the closed-end type, or to units acquired or disposed of in such collective investment undertakings.

(3) The provisions mentioned in Article 15(3) and Article 17(2), (3) and (4) shall not apply to securities which are admitted to trading on a regulated market issued by the Luxembourg State or one of its communes.

Chapter II – Periodic information

Article 3. Annual financial reports

“(1) The issuer for which Luxembourg is the home Member State shall make public its annual financial report at the latest four months after the end of each financial year and shall ensure that it remains publicly available for at least 10 years.”⁶

(2) The annual financial report shall comprise:

- (a) the audited financial statements;
- (b) the management report; and
- (c) the statements made by the persons responsible within the issuer, whose names and functions shall be clearly indicated, to the effect that, to the best of their knowledge, the financial statements prepared in accordance with the applicable set of accounting standards give a true and fair view of the assets, liabilities, financial position and profit or loss of the issuer and the undertakings included in the consolidation taken as a whole and that the management report includes a fair review of the development and performance of the business and the position of the issuer and the undertakings included in the consolidation taken as a whole, together with a description of the principal risks and uncertainties that they face.

(3) Where the issuer is required to prepare consolidated accounts according to the Seventh Council Directive 83/349/EEC of 13 June 1983 on consolidated accounts, to Council Directive 86/635/EEC of 8 December 1986 on the annual accounts and consolidated accounts of banks and other financial institutions or to Council Directive 91/674/EEC of 19 December 1991 on the annual accounts and consolidated accounts of insurance companies, the audited financial statements shall comprise such consolidated accounts drawn up in accordance with Regulation (EC) No 1606/2002 of the European Parliament and of the Council of 19 July 2002 on the application of international accounting standards and the annual accounts of the parent company drawn up in accordance with the national law of the Member State in which the parent company is incorporated.

Where the issuer is not required to prepare consolidated accounts, the audited financial statements shall comprise the accounts prepared in accordance with the national law of the Member State in which the company is incorporated.

(4) The financial statements shall be audited in accordance with Article 51 and Article 51(a) of the Fourth Council Directive 78/660/EEC of 25 July 1978 on the annual accounts of certain types of companies, as amended, and, if the issuer is required to prepare consolidated accounts, in accordance with Article 37 of Council Directive 83/349/EEC of 13 June 1983 on consolidated accounts.

The audit report, signed by the person or persons responsible for auditing the financial statements, shall be disclosed in full to the public together with the annual financial report.

(5) The management report shall be drawn up in accordance with Article 46 of the above-mentioned Directive 78/660/EEC and, if the issuer is required to prepare consolidated accounts, in accordance with Article 36 of the above-mentioned Directive 83/349/EEC.

Article 4. Half-yearly financial reports

“(1) The issuer of shares or debt securities for which Luxembourg is the home Member State shall make public a half-yearly financial report covering the first six months of the financial year as soon as possible after the end of the relevant period, but at the latest three months thereafter. The issuer

⁶ Law of 10 May 2016

shall ensure that the half-yearly financial report remains available to the public for at least 10 years.”⁷

(2) The half-yearly financial report shall comprise:

- (a) the condensed set of financial statements;
- (b) an interim management report; and
- (c) statements made by the persons responsible within the issuer, whose names and functions shall be clearly indicated, to the effect that, to the best of their knowledge, the condensed set of financial statements which has been prepared in accordance with the applicable set of accounting standards gives a true and fair view of the assets, liabilities, financial position and profit or loss of the issuer, or the undertakings included in the consolidation as a whole as required under paragraph (3), and that the interim management report includes a fair review of the information required under paragraph (4).

(3) Where the issuer is required to prepare consolidated accounts, the condensed set of financial statements shall be prepared in accordance with the international accounting standard applicable to the interim financial reporting adopted pursuant to the procedure provided for under Article 6 of Regulation (EC) No 1606/2002 of the European Parliament and of the Council of 19 July 2002 on the application of international accounting standards.

Where the issuer is not required to prepare consolidated accounts, the condensed set of financial statements shall at least contain a condensed balance sheet, a condensed profit and loss account and explanatory notes on these accounts. In preparing the condensed balance sheet and the condensed profit and loss account, the issuer shall follow the same principles for recognising and measuring as when preparing annual financial reports.

(4) The interim management report shall include at least an indication of important events that have occurred during the first six months of the financial year, and their impact on the condensed set of financial statements, together with a description of the principal risks and uncertainties for the remaining six months of the financial year. For issuers of shares, the interim management report shall also include major related parties transactions.

“(5) If the half-yearly financial report has been audited, the audit report shall be reproduced in full. The same shall apply in the case of a review by a *réviseur d’entreprises agréé* (approved statutory auditor), a statutory auditor or a third-country auditor. If the half-yearly financial report has not been audited or reviewed by a *réviseur d’entreprises agréé* (approved statutory auditor), a statutory auditor or a third-country auditor, the issuer shall make a statement to that effect in its report.”⁸

“Article 5. Report on payments to governments

The issuer, for which Luxembourg is the home Member State, active in the extractive or logging of primary forest industries, as defined in Article 41(1) and (2) of Directive 2013/34/EU of the European Parliament and of the Council of 26 June 2013 on the annual financial statements, consolidated financial statements and related reports of certain types of undertakings, amending Directive 2006/43/EC of the European Parliament and of the Council and repealing Council Directives 78/660/EEC and 83/349/EEC, shall prepare on an annual basis a report on payments made to governments in accordance with the requirements of Chapter 10 of that directive. The report shall be made public at the latest six months after the end of each financial year and shall remain publicly available for at least 10 years. Payments to governments shall be reported at consolidated level.”⁹

⁷ Law of 10 May 2016

⁸ Law of 18 December 2009

⁹ Law of 10 May 2016

Article 6. Responsibility

The responsibility for the information to be drawn up and made public in accordance with Articles 3, 4, 5 and 15 lies with the issuer.

Article 7. Exemptions

“(1) Articles 3 and 4 shall not apply to the following issuers:

- (a) a State, a regional or local authority of a State, a public international body of which at least one Member State is a member, the European Central Bank (ECB), the European Financial Stability Facility (EFSF) established by the EFSF Framework Agreement and any other mechanism established with the objective of preserving the financial stability of European monetary union by providing temporary financial assistance to the Member States whose currency is the euro and Member States' national central banks whether or not they issue shares or other securities; and
- (b) an issuer exclusively of debt securities admitted to trading on a regulated market, the denomination per unit of which is at least EUR 100,000 or, in the case of debt securities denominated in a currency other than euro, the value of such denomination per unit is, at the date of the issue, equivalent to at least EUR 100,000.”¹⁰

(2) Article 4 shall not apply to credit institutions for which Luxembourg is the home Member State and whose shares are not admitted to trading on a regulated market and which have, in a continuous or repeated manner, only issued debt securities provided that the total nominal amount of all such debt securities remains below EUR 100,000,000 and that they have not published a prospectus under Directive 2003/71/EC on the prospectus to be published when securities are offered to the public or admitted to trading and amending Directive 2001/34/EC.

(3) Article 4 shall not apply to issuers for which Luxembourg is the home Member State and which exclusively issue debt securities unconditionally and irrevocably guaranteed by the Luxembourg State or by one of its communes, on a regulated market, provided such issuer existed prior to 31 December 2003.

“(4) By way of derogation from point (b) of paragraph 1, Articles 3 and 4 shall not apply to issuers exclusively of debt securities the denomination per unit of which is at least EUR 50,000 or, in the case of debt securities denominated in a currency other than euro, the value of such denomination per unit is, at the date of the issue, equivalent to at least EUR 50,000, which have already been admitted to trading on a regulated market in a Member State before 31 December 2010, for as long as such debt securities are outstanding.”¹¹

Chapter III – Ongoing information

Section 1 - Information about major holdings

Article 8. Notification of the acquisition or disposal of major holdings

(1) A shareholder who acquires or disposes of shares, including depositary receipts representing shares, of an issuer whose shares, including depositary receipts representing shares, are admitted to trading on a regulated market and for which Luxembourg is the home Member State and to which voting rights are attached, shall notify the issuer of the proportion of voting rights of the issuer held by the shareholder as a result of the acquisition or disposal where that proportion reaches, exceeds or falls below the thresholds of 5%, 10%, 15%, 20%, 25%, 33 1/3%, 50% and 66 2/3%.

The voting rights shall be calculated on the basis of all the shares, including depositary receipts representing shares, to which voting rights are attached even if the exercise thereof is suspended.

¹⁰ Law of 10 May 2016

¹¹ Law of 10 May 2016

Moreover this information shall also be given in respect of all the shares, including depositary receipts representing shares, which are in the same class and to which voting rights are attached.

(2) A shareholder shall notify the issuer of the proportion of voting rights, where that proportion reaches, exceeds or falls below the thresholds provided for in paragraph (1), as a result of events changing the breakdown of voting rights, and on the basis of the information disclosed pursuant to Article 14. Where the issuer is incorporated in a third country, the notification shall be made for equivalent events.

(3) This Article shall not apply to shares, including depositary receipts representing shares, acquired for the sole purpose of clearing and settling within the usual short settlement cycle, or to custodians holding shares in their custodian capacity provided such custodians can only exercise the voting rights attached to such shares, including depositary receipts representing shares, under instructions given in writing or by electronic means.

(4) This Article shall not apply to the acquisition or disposal of a major holding reaching or crossing the 5% threshold by a market maker acting in its capacity of a market maker, provided that:

- (a) it is authorised by its home Member State in accordance with Directive 2004/39/EC of the European Parliament and of the Council of 21 April 2004 on markets in financial instruments; and
- (b) it neither intervenes in the management of the issuer concerned nor exerts any influence on the issuer to buy such shares or back the share price.

“(5) This article shall not apply to voting rights held in the trading book, as defined in Article 11 of Directive 2006/49/EC of the European Parliament and of the Council of 14 June 2006 on the capital adequacy of investment firms and credit institutions, of a credit institution or investment firm provided that:

- (a) the voting rights held in the trading book do not exceed 5%; and
- (b) the voting rights attached to shares held in the trading book are not exercised or otherwise used to intervene in the management of the issuer.”¹²

(Law of 10 May 2016)

“(6) This article shall not apply to voting rights attached to shares acquired for stabilisation purposes in accordance with Commission Regulation (EC) No 2273/2003 of 22 December 2003 implementing Directive 2003/6/EC of the European Parliament and of the Council as regards exemptions for buy-back programmes and stabilisation of financial instruments, provided the voting rights attached to those shares are not exercised or otherwise used to intervene in the management of the issuer.”

Article 9. Acquisition or disposal of major proportions of voting rights

The notification requirements defined in Article 8(1) and 8(2) shall also apply to a natural person or legal entity to the extent it is entitled to acquire, to dispose of, or to exercise voting rights in any of the following cases or a combination of them:

- (a) voting rights held by a third party with whom that person or entity has concluded an agreement, which obliges them to adopt, by concerted exercise of the voting rights they hold, a lasting common policy towards the management of the issuer in question;
- (b) voting rights held by a third party under an agreement concluded with that person or entity providing for the temporary transfer for consideration of the voting rights in question;

¹² Law of 10 May 2016

- (c) voting rights attaching to shares which are lodged as collateral with that person or entity, provided the person or entity controls the voting rights and declares its intention of exercising them;
- (d) voting rights attaching to shares in which that person or entity has the life interest;
- (e) voting rights which are held, or may be exercised within the meaning of points (a) to (d), by an undertaking controlled by that person or entity;
- (f) voting rights attaching to shares deposited with that person or entity which the person or entity can exercise at its discretion in the absence of specific instructions from the shareholders;
- (g) voting rights held by a third party in its own name on behalf of that person or entity;
- (h) voting rights which that person or entity may exercise as a proxy where the person or entity can exercise the voting rights at its discretion in the absence of specific instructions from the shareholders.

Article 10. Exemptions for monetary policy purposes

- (1) Articles 8 and 9(c) shall not apply to shares provided to or by the members of the European System of Central Banks (ESCB) in carrying out their functions as monetary authorities, including shares provided to or by members of the ESCB under a pledge or repurchase or similar agreement for liquidity granted for monetary policy purposes or within a payment system.
- (2) The exemption shall apply to the above transactions lasting for a short period and provided that the voting rights attaching to such shares are not exercised.

Article 11. Procedures on the notification and disclosure of major holdings

- (1) The CSSF defines the content and the form of the notification required pursuant to Articles 8 and 9.

The notification shall include the following information:

- (a) the resulting situation in terms of voting rights;
- (b) the chain of controlled undertakings through which voting rights are effectively held, if applicable;
- (c) the date on which the threshold was reached or crossed; and
- (d) the identity of the shareholder, even if that shareholder is not entitled to exercise voting rights under the conditions laid down in Article 9, and of the natural person or legal entity entitled to exercise voting rights on behalf of that shareholder.

- (2) The notification to the issuer shall be effected “promptly”¹³, but not later than four trading days (...) ¹⁴ after the date on which the shareholder, or the natural person or legal entity referred to in Article 9

- (a) learns of the acquisition or disposal or of the possibility of exercising voting rights, or on which, having regard to the circumstances, should have learned of it, regardless of the date on which the acquisition, disposal or possibility of exercising voting rights takes effect; or
- (b) is informed about the event mentioned in Article 8(2).

¹³ Law of 10 May 2016

¹⁴ Law of 10 May 2016

(3) An undertaking shall be exempted from making the required notification in accordance with (1) if the notification is made by the parent undertaking or, where the parent undertaking is itself a controlled undertaking, by its own parent undertaking.

(4) The parent undertaking of a management company shall not be required to aggregate its holdings under Articles 8 and 9 with the holdings managed by the management company under the conditions laid down in Council Directive 85/611/EEC of 20 December 1985 on the coordination of laws, regulations and administrative provisions relating to undertakings for collective investment in transferable securities (UCITS), as amended, provided such management company exercises its voting rights independently from the parent undertaking.

However, Articles 8 and 9 shall apply where the parent undertaking, or another controlled undertaking of the parent undertaking, has invested in holdings managed by such management company and the management company has no discretion to exercise the voting rights attached to such holdings and may only exercise such voting rights under direct or indirect instructions from the parent or another controlled undertaking of the parent undertaking.

(5) The parent undertaking of an investment firm authorised under Directive 2004/39/EC of the European Parliament and of the Council of 21 April 2004 on markets in financial instruments shall not be required to aggregate its holdings under Articles 8 and 9 with the holdings which such investment firm manages on a client-by-client basis within the meaning of Article 4(1)(9) of said Directive, provided that:

- (a) the investment firm is authorised to provide such portfolio management under point 4 of Section A of Annex I to Directive 2004/39/EC of the European Parliament and of the Council of 21 April 2004 on markets in financial instruments;
- (b) it may only exercise the voting rights attached to such shares under instructions given in writing or by electronic means or it ensures that individual portfolio management services are conducted independently of any other services under conditions equivalent to those provided for under Council Directive 85/611/EEC of 20 December 1985 on the coordination of laws, regulations and administrative provisions relating to undertakings for collective investment in transferable securities (UCITS), as amended, by putting into place appropriate mechanisms; and
- (c) the investment firm exercises its voting rights independently from the parent undertaking.

However, Articles 8 and 9 shall apply where the parent undertaking, or another controlled undertaking of the parent undertaking, has invested in holdings managed by such investment firm and the investment firm has no discretion to exercise the voting rights attached to such holdings and may only exercise such voting rights under direct or indirect instructions from the parent or another controlled undertaking of the parent undertaking.

(6) Upon receipt of the notification under paragraph (1), but no later than three trading days thereafter, the issuer shall make public all the information contained in the notification.

(7) Where the CSSF, in its capacity as competent authority of the home Member State, publishes the information required in paragraph (1) under the conditions laid down in Article 20, upon receipt of the notification, but no later than three trading days thereafter, an issuer is exempted from the obligation laid down in paragraph (6).

Article 12. Specific financial instruments

"(1) The notification requirements laid down in Article 8 shall also apply to a natural person or legal entity who holds, directly or indirectly:

- (a) financial instruments that, on maturity, give the holder, under a formal agreement, either the unconditional right to acquire or the discretion as to his right to acquire, shares to which voting rights are attached, already issued, of an issuer whose shares are admitted to trading on a regulated market;

- (b) financial instruments which are not included in point (a) but which are referenced to shares referred to in that point and with economic effect similar to that of the financial instruments referred to in that point, whether or not they confer a right to a physical settlement.

The notification required shall include the breakdown by type of financial instruments held in accordance with point (a) of the first subparagraph and financial instruments held in accordance with point (b) of that subparagraph, distinguishing between the financial instruments which confer a right to a physical settlement and the financial instruments which confer a right to a cash settlement."¹⁵

(Law of 10 May 2016)

"(2) The number of voting rights shall be calculated by reference to the full notional amount of shares underlying the financial instrument except where the financial instrument provides exclusively for a cash settlement, in which case the number of voting rights shall be calculated on a "delta-adjusted" basis, by multiplying the notional amount of underlying shares by the delta of the instrument. For this purpose, the holder shall aggregate and notify all financial instruments relating to the same underlying issuer. Only long positions shall be taken into account for the calculation of voting rights. Long positions shall not be netted with short positions relating to the same underlying issuer."

(Law of 10 May 2016)

"(3) For the purposes of paragraph 1, the following shall be considered to be financial instruments, provided they satisfy any of the conditions set out in points (a) or (b) of the first subparagraph of paragraph 1:

- (a) transferable securities;
- (b) options;
- (c) futures;
- (d) swaps;
- (e) forward rate agreements;
- (f) contracts for differences; and
- (g) any other contracts or agreements with similar economic effects which may be settled physically or in cash."

(Law of 10 May 2016)

"(4) The exemptions laid down in Article 8(3), (4) and (5) and in Article 11(3), (4) and (5) shall apply to the notification requirements under this article."

(Law of 10 May 2016)

"Article 12a. Aggregation

(1) The notification requirements laid down in Articles 8, 9 and 12 shall also apply to a natural person or a legal entity when the number of voting rights held directly or indirectly by such person or entity under Articles 8 and 9 aggregated with the number of voting rights relating to financial instruments held directly or indirectly under Article 12 reaches, exceeds or falls below the thresholds set out in Article 8(1).

The notification required under the first subparagraph shall include a breakdown of the number of voting rights attached to shares held in accordance with Articles 8 and 9 and voting rights relating to financial instruments within the meaning of Article 12.

(2) Voting rights relating to financial instruments that have already been notified in accordance with Article 12 shall be notified again when the natural person or the legal entity has acquired the

¹⁵ Law of 10 May 2016

underlying shares and such acquisition results in the total number of voting rights attached to shares issued by the same issuer reaching or exceeding the thresholds laid down by Article 8(1)."

Article 13. Own shares

Where an issuer of shares admitted to trading on a regulated market and for which Luxembourg is the home Member State acquires or disposes of its own shares, either itself or through a person acting in his own name but on the issuer's behalf, the issuer shall make public the proportion of its own shares as soon as possible, but not later than four trading days following such acquisition or disposal where that proportion reaches, exceeds or falls below the thresholds of 5% or 10% of the voting rights. The proportion shall be calculated on the basis of the total number of shares to which voting rights are attached.

Article 14. Disclosure of the total number of voting rights and capital

For the purpose of calculating the thresholds provided for in Article 8, the issuer for which Luxembourg is the home Member State shall disclose to the public the total number of voting rights and capital at the end of each calendar month during which an increase or decrease of such total number has occurred.

Article 15. Additional information

(1) The issuer of shares admitted to trading on a regulated market and for which Luxembourg is the home Member State shall make public without delay any change in the rights attaching to the various classes of shares, including changes in the rights attaching to derivative securities issued by the issuer itself and giving access to the shares of that issuer.

"(2) The issuer of securities, other than shares admitted to trading on a regulated market and for which Luxembourg is the home Member State, shall make public without delay any changes in the rights of holders of securities other than shares, including changes in the terms and conditions of these securities which could indirectly affect those rights, resulting in particular from a change in loan terms or interest rates.

(...)¹⁶ ¹⁷

Section II - Information for holders of securities admitted to trading on a regulated market

Article 16. Information requirements for issuers whose shares are admitted to trading on a regulated market

(1) The issuer of shares admitted to trading on a regulated market and for which Luxembourg is the home Member State shall ensure equal treatment for all holders of shares who are in the same position.

(2) For the purposes of paragraph (1), the issuer shall ensure that all the facilities and information necessary to enable holders of shares to exercise their rights are available in the home Member State and that the integrity of data is preserved. Shareholders shall not be prevented from exercising their rights by proxy, subject to the law of the country in which the issuer is incorporated. In particular, the issuer shall:

- (a) provide information on the place, time and agenda of meetings, the total number of shares and voting rights and the rights of holders to participate in meetings;
- (b) make available a proxy form, on paper or, where applicable, by electronic means, to each person entitled to vote at a shareholders' meeting, together with the notice concerning the meeting or, on request, after an announcement of the meeting;

¹⁶ Law of 10 May 2016

¹⁷ Law of 28 April 2011

- (c) designate as its agent a financial institution through which shareholders may exercise their financial rights; and
 - (d) publish notices or distribute circulars concerning the allocation and payment of dividends and the issue of new shares, including information on any arrangements for allotment, subscription, cancellation or conversion.
- (3) For the purposes of conveying information to shareholders, issuers are allowed to use of electronic means, provided such a decision is taken in a general meeting and meets at least the following conditions:
- (a) the use of electronic means shall in no way depend upon the location of the seat or residence of the shareholder or, in the cases referred to in Article 9(a) to (h), of the natural persons or legal entities;
 - (b) identification arrangements shall be put in place so that the shareholders, or the natural persons or legal entities entitled to exercise or to direct the exercise of voting rights, are effectively informed;
 - (c) shareholders, or in the cases referred to in Article 9(a) to (e) the natural persons or legal entities entitled to acquire, dispose of or exercise voting rights, shall be contacted in writing to request their consent for the use of electronic means for conveying information. If they do not object within a reasonable period of time, their consent shall be deemed to be given. They shall be able to request, at any time in the future, that information be conveyed in writing; and
 - (d) any apportionment of the costs entailed in the conveyance of such information by electronic means shall be determined by the issuer in compliance with the principle of equal treatment laid down in paragraph (1).

Article 17. Information requirements for issuers whose debt securities are admitted to trading on a regulated market

- (1) The issuer of debt securities admitted to trading on a regulated market and for which Luxembourg is the home Member State shall ensure that all holders of debt securities ranking *pari passu* are given equal treatment in respect of all the rights attaching to those debt securities.
- (2) For the purposes of paragraph (1), the issuer shall ensure that all the facilities and information necessary to enable holders of debt securities to exercise their rights are available in the home Member State and that the integrity of data is preserved. Debt securities holders shall not be prevented from exercising their rights by proxy, subject to the law of country in which the issuer is incorporated. In particular, the issuer shall:
- (a) publish notices, or distribute circulars, concerning the place, time and agenda of meetings of debt securities holders, the payment of interest, the exercise of any conversion, exchange, subscription or cancellation rights, and repayment, as well as the right of those holders to participate therein;
 - (b) make available a proxy form on paper or, where applicable, by electronic means, to each person entitled to vote at a meeting of debt securities holders, together with the notice concerning the meeting or, on request, after an announcement of the meeting; and
 - (c) designate as its agent a financial institution through which debt securities holders may exercise their financial rights.

“(3) If only holders of debt securities whose denomination per unit amounts to at least EUR 100,000 or, in the case of debt securities denominated in a currency other than Euro whose denomination per unit is, at the date of the issue, equivalent to at least EUR 100,000, are to be invited to a meeting, the issuer may choose as venue any Member State, provided that all the facilities and information necessary to enable such holders to exercise their rights are made available in that Member State.

The choice referred to in the first subparagraph shall also apply with regard to holders of debt securities whose denomination per unit amounts to at least EUR 50,000 or, in the case of debt securities denominated in a currency other than euro, the value of such denomination per unit is, at the date of the issue, equivalent to at least EUR 50,000, which have already been admitted to trading on a regulated market in a Member State before 31 December 2010, for as long as such debt securities are outstanding, provided that all the facilities and information necessary to enable such holders to exercise their rights are made available in the Member State chosen by the issuer."¹⁸

(4) For the purposes of conveying information to debt security holders, issuers are allowed to use of electronic means, provided such a decision is taken in a general meeting and meets at least the following conditions:

- (a) the use of electronic means shall in no way depend upon the location of the seat or residence of the debt securities holder or of a proxy representing that holder;
- (b) identification arrangements shall be put in place so that debt securities holders are effectively informed;
- (c) debt securities holders shall be contacted in writing to request their consent for the use of electronic means for conveying information. If they do not object within a reasonable period of time, their consent shall be deemed to be given. They shall be able to request, at any time in the future, that information be conveyed in writing; and
- (d) any apportionment of the costs entailed in the conveyance of such information by electronic means shall be determined by the issuer in compliance with the principle of equal treatment laid down in paragraph (1).

Chapter IV – General obligations

Article 18. Control by the CSSF

(1) Whenever the issuer, or any person having requested, without the issuer's consent, the admission of its securities to trading on a regulated market and for which Luxembourg is the home Member State, discloses regulated information, it shall at the same time file that information with the CSSF. The CSSF may decide to publish such filed information on its Internet site.

(...)¹⁹

(2) Information to be notified to the issuer in accordance with Articles 8, 9, 11 and 12 shall at the same time be filed with the CSSF.

Article 19. Languages

(1) Where securities are only admitted to trading on a regulated market situated or operating within the territory of Luxembourg and where Luxembourg is the home Member State, regulated information shall be disclosed in a language accepted by the CSSF.

(2) Where securities are admitted to trading on a regulated market in several Member States including on a regulated market situated or operating within the territory of Luxembourg and where Luxembourg is the home Member State, the regulated information shall be disclosed in a language accepted by the CSSF.

The regulated information shall also be published either in a language accepted by the competent authorities of the host Member States concerned, or, depending on the choice of the issuer, in a language customary in the sphere of international finance, recognised as such by the CSSF.

¹⁸ Law of 3 July 2012

¹⁹ Law of 10 May 2016

(3) Where securities are admitted to trading on a regulated market in one or more Member States, but not in Luxembourg but where Luxembourg is the home Member State, regulated information shall, depending on the choice of the issuer, be disclosed either in a language accepted by the competent authorities of those host Member States or in a language customary in the sphere of international finance, recognised as such by the CSSF.

The regulated information shall also be published either in a language accepted by the CSSF, or in a language customary in the sphere of international finance, recognised as such by the CSSF.

(4) The issuer for which Luxembourg is the host Member State, shall disclose the regulated information either in a language accepted by the CSSF, or in a language customary in the sphere of international finance, recognised as such by the CSSF.

(5) For the purposes of paragraphs (1) to (4), the languages accepted in any case by the CSSF are Luxembourgish, French, German and English.

(6) Where securities are admitted to trading on a regulated market without the issuer's consent, the obligations under paragraphs (1), (2), (3) and (4) shall be incumbent not upon the issuer, but upon the person who, without the issuer's consent, has requested such admission.

(7) Any shareholder and the natural person or legal entity referred to in Articles 8, 9 and 12 are allowed to notify information to an issuer under this law only in a language customary in the sphere of international finance, recognised as such by the CSSF.

“(8) By way of derogation from paragraphs (1) to (4), where securities whose denomination per unit amounts to at least EUR 100,000 or, in the case of debt securities denominated in a currency other than Euro equivalent to at least EUR 100,000 at the date of the issue, are admitted to trading on a regulated market in one or more Member States, regulated information shall be disclosed to the public either in a language accepted by the competent authorities of the home and host Member States or in a language customary in the sphere of international finance, at the choice of the issuer or of the person who, without the issuer's consent, has requested such admission.

The derogation referred to in the first subparagraph shall also apply to debt securities the denomination per unit of which is at least EUR 50,000 or, in the case of debt securities denominated in a currency other than euro, the value of such denomination per unit is, at the date of the issue, equivalent to at least EUR 50,000, which have already been admitted to trading on a regulated market in one or more Member States before 31 December 2010, for as long as such debt securities are outstanding.”²⁰

(9) If an action concerning the content of regulated information is brought before a court or tribunal in a Member State, responsibility for the payment of costs incurred in the translation of that information for the purposes of the proceedings shall be decided in accordance with the law of that Member State.

Article 20. Access to regulated information

(1) The issuer, or the person who has applied for admission to trading on a regulated market without the issuer's consent and for which Luxembourg is the home Member State, shall disclose regulated information in a manner ensuring fast access to such information on a non-discriminatory basis and makes it available to the officially appointed mechanism(s) referred to in paragraph (2).

The issuer or the person who has applied for admission to trading on a regulated market without the issuer's consent may not charge investors any specific cost for providing the information.

For the purposes of publication described in the first sub-paragraph, the issuer shall use such media as may reasonably be relied upon for the effective dissemination of information to the public in all the Member States.

²⁰ Law of 3 July 2012

(2) One or more mechanisms officially appointed for the central storage of regulated information (OAM, Officially Appointed Mechanism) shall be appointed by way of Grand-ducal regulation.

(Law of 10 May 2016)

"(2a) Any officially appointed mechanism for the central storage of regulated information, referred to in paragraph 2, shall ensure access via the European access point within the meaning of Article 21a of 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."

(3) Where securities are only admitted to trading on a regulated market situated or operating on the territory of Luxembourg but in case Luxembourg is not the home Member State, the issuer or any person having requested, without the issuer's consent, the admission of its securities to trading on a regulated market, must disclose the regulated information in accordance with paragraph (1).

Article 21. Third countries

(1) Where the registered office of an issuer for which Luxembourg is the home Member State is in a third country, the CSSF may exempt that issuer from requirements under Articles 3 to 6, Article 11(6) and Articles 13 to 17, provided that the law of the third country in question lays down equivalent requirements or such an issuer complies with requirements of the law of a third country that the CSSF considers as equivalent.

"The CSSF shall then inform the European Securities and Markets Authority of the exemption granted."²¹

(Law of 10 May 2016)

"The information covered by the requirements laid down in the third country shall be filed in accordance with Article 18 and disclosed in accordance with Articles 19 and 20."

(2) By way of derogation from paragraph (1), an issuer whose registered office is in a third country shall be exempted from preparing its financial statement in accordance with Article 3 or Article 4 prior to the financial year starting on or after 1 January 2007, provided such issuer prepares its financial statements in accordance with internationally accepted standards referred to in Article 9 of Regulation (EC) No 1606/2002 of the European Parliament and of the Council of 19 July 2002 on the application of international accounting standards.

(3) The CSSF, in its capacity as competent authority of the home Member State shall ensure that information disclosed in a third country which may be of importance for the public in the European Union is disclosed in accordance with Articles 19 and 20, even if such information is not regulated information within the meaning of Article 1(10).

(4) Undertakings whose registered office is in a third country which would have required an authorisation in accordance with Article 5(1) of Council Directive 85/611/EEC of 20 December 1985 on the coordination of laws, regulations and administrative provisions relating to undertakings for collective investment in transferable securities (UCITS), as amended, or, with regard to portfolio management under point 4 of section A of Annex I to Directive 2004/39/EC of the European Parliament and of the Council of 21 April 2004 on markets in financial instruments if it had its registered office or, only in the case of an investment firm, its head office within a Member State, shall also be exempted from aggregating holdings with the holdings of its parent undertaking under the requirements laid down in Article 11(4) and (5) provided that they comply with equivalent conditions of independence as management companies or investment firms.

²¹ Law of 21 December 2012

Chapter 5- Competent authority

Article 22. Competent authority

“(1) The CSSF is the competent authority to ensure that the provisions of this law are applied. In this context, the CSSF's tasks include examining whether the information referred to in this law is drawn up pursuant to the relevant reporting framework.”²²

(2) The CSSF shall be given all supervisory and investigatory powers that are necessary for the exercise of its functions.

The CSSF's powers include, inter alia, the right to:

- “(a) require *réviseurs d'entreprises agréés* (approved statutory auditors), statutory auditors or third-country auditors, issuers, persons who have applied for admission to trading on a regulated market without the issuer's consent, holders of shares or other financial instruments, or persons or entities referred to in Articles 9 or 12, the persons that control them or are controlled by them and OAMs, to provide information and documents;”²³
- (b) require the issuer or the person who has applied for admission to trading on a regulated market without the issuer's consent to disclose the information set out in (a) by the means and within the time limits which the CSSF considers necessary. The CSSF may publish such information on its own initiative in the event that the issuer, or the persons that control it or are controlled by it, fail to do so and after having heard the issuer;
- (c) require managers of the issuers or of persons who have applied for admission to trading on a regulated market without the issuer's consent and managers of the holders of shares or of other financial instruments, or persons referred to in Articles 9 or 12, to notify the information required under this law and, if necessary, to provide further information and documents;
- (d) suspend, or request the relevant regulated market to suspend, trading in securities for a maximum of ten days at a time if it has reasonable grounds for suspecting that the provisions of this law have been infringed by the issuer or by the person who has applied for admission to trading on a regulated market without the issuer's consent;
- (e) “require the withdrawal from the regulated market or request the regulated market concerned to withdraw a security admitted to trading on a regulated market”²⁴ if it finds that the provisions of this law have been infringed, or if it has reasonable grounds for suspecting that the provisions of this law have been infringed;
- (f) monitor that the issuer or the person who has applied for admission to trading on a regulated market without the issuer's consent, discloses timely information with the objective of ensuring effective and equal access to the public in all Member States where the securities are traded and take appropriate action if that is not the case;
- (g) make public the fact that an issuer, a person who has applied for admission to trading on a regulated market without the issuer's consent, or a holder of shares or other financial instruments, or a person or entity referred to in Articles 9 or 12, is failing to comply with its obligations;
- “(h) require one or more of the following measures, if the CSSF detects infringements to the provisions of this law:
 - the new publication or notification of regulated information;

²² Law of 10 May 2016

²³ Law of 18 December 2009

²⁴ Law of 10 May 2016

- the publication or notification of an appropriate corrective notice on regulated information;
- the appropriate correction or modification in future regulated information;"²⁵
- (i) carry out on-site inspections in the territory of Luxembourg in order to verify compliance with the provisions of this law and its implementing measures; and
- (j) order an issuer, a person who has applied for admission to trading on a regulated market without the issuer's consent, a holder of shares or other financial instruments, a person referred to in Articles 9 or 12, the persons that control them or are controlled by them, or an OAM to comply with the obligations imposed on them "or to cease any practice that is contrary to the provisions of this law and to prohibit its repetition"²⁶.

"(3) The CSSF may, inter alia, request a *réviseur d'entreprises agréé* (approved statutory auditor), a statutory auditor or a third-country auditor to carry out an inspection of one or several obligations imposed on an issuer or on a person who has applied for admission to trading on a regulated market without the issuer's consent or on an OAM pursuant to this law."²⁷ This inspection shall be carried out at the expense of the issuer or the person who has applied for admission to trading on a regulated market without the issuer's consent or the OAM in question.

"(4) The disclosure to the CSSF by the *réviseurs d'entreprises agréés* (approved statutory auditors), statutory auditors or third-country auditors of any fact or decision related to the requests made by the CSSF under paragraph (2)(a) shall not constitute a breach of any restriction on disclosure of information imposed by contract or by any law, regulation or administrative provision and shall not involve such auditors in liability of any kind."²⁸

(5) If the CSSF considers that information it receives in accordance with Articles 8, 9 or 12 is not compliant with this law or that it is likely to mislead the public, the CSSF shall inform the reporting entity thereof. The CSSF may request the reporting entity to remedy its non-compliance within the deadlines it sets.

Article 23. Cooperation between Member States

(1) The CSSF shall cooperate with the competent authorities of other Member States, whenever necessary, for the purpose of carrying out its duties and making use of its powers set out in this law. The CSSF shall render assistance to competent authorities of other Member States.

(*Law of 21 December 2012*)

"The CSSF may refer to the European Securities and Markets Authority situations where a request for cooperation has been rejected or not been acted upon within a reasonable time."

(*Law of 21 December 2012*)

"(1a) The CSSF shall cooperate with the European Securities and Markets Authority for the purposes of Directive 2004/109/EC, in accordance with Regulation (EU) No 1095/2010."

(*Law of 10 May 2016*)

"(1b) In the exercise of its sanctioning and investigative powers, the CSSF shall cooperate with the competent authorities of the other Member States to ensure that sanctions or measures produce the desired results, and the CSSF and the competent authorities of the other Member States shall coordinate their action when dealing with cross-border cases."

²⁵ Law of 10 May 2016

²⁶ Law of 10 May 2016

²⁷ Law of 18 December 2009

²⁸ Law of 18 December 2009

(2) “The CSSF may exchange confidential information with, or transmit information to, the competent authorities of the other Member States, to the European Securities and Markets Authority and to the European Systemic Risk Board for the purposes of this law.”²⁹

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.

(Law of 21 December 2012)

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

(3) The CSSF may also exchange confidential information with the competent authorities or bodies of third countries enabled by their respective legislation to carry out the tasks assigned by 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 to the competent authorities in accordance with Article 24 of said Directive. “Where, to this end, the CSSF concludes a cooperation agreement with competent authorities or bodies of third countries, it shall notify this to the European Securities and Markets Authority.”³⁰

Communication of information by the CSSF is subject to the following conditions:

- (a) the information communicated to other authorities or bodies of a third country is necessary for the performance of the supervisory mission of the authorities or bodies mentioned above;
- (b) the information communicated to authorities or bodies of a third country is covered by their professional secrecy that shall provide guarantees at least equivalent to the professional secrecy which the CSSF is subject to;
- (c) the authorities or bodies of a third country receiving information from the CSSF must use this information only for the purposes for which it has been communicated to them and must be in a position to ensure that no other use is made thereof; and
- (d) the authorities or bodies of a third country receiving information from the CSSF grant the same right to information to the CSSF.

Art. 24 Precautionary measures

(1) Where Luxembourg is the host Member State, the CSSF shall refer its findings to the competent authority of the home Member State “and to the European Securities and Markets Authority”³¹ where it finds that the issuer or the holder of shares or other financial instruments, or the person or entity referred to in Article 9, has committed irregularities or infringed its obligations.

(2) If, despite the measures taken by the competent authority of the home Member State, or because such measures prove inadequate, the issuer or the security holder persists in infringing the relevant legal or regulatory provisions, the CSSF shall, after informing the competent authority of the home Member State, take all the appropriate measures in order to protect investors. The European Commission “and the European Securities and Markets Authority”³² shall be informed of such measures at the earliest opportunity.

²⁹ Law of 21 December 2012

³⁰ Law of 21 December 2012

³¹ Law of 21 December 2012

³² Law of 21 December 2012

Chapter VI - Implementing measures

Section 1 – Penalties and Remedies

Article 25. Administrative sanctions

(1) An administrative fine of between EUR 125 and EUR 125,000 may be imposed by the CSSF on the persons referred to in Article 22(2) in the following cases:

- (a) where such persons do not comply with the CSSF's request for information;
- (b) where the information given proves to be incomplete or inaccurate;
- (c) where they fail to act in response to orders of the CSSF;
- “(d) where they do not respect the measures required by the CSSF pursuant to Article 22(2)(h).”³³

“(2) In case of failure “to publish the regulated information by the issuer within the required deadline or to notify the acquisition or disposal of major holdings by one of the shareholders referred to in Chapter III”³⁴ within the required time limit, the CSSF may impose the following administrative fines:

- (a) in the case of a legal entity,
 - up to EUR 10,000,000 or up to 5 % of the total annual turnover according to the last available annual accounts approved by the management body; where the legal entity is a parent undertaking or a subsidiary of a parent undertaking which has to prepare consolidated financial accounts pursuant to Directive 2013/34/EU of the European Parliament and of the Council of 26 June 2013 on the annual financial statements, consolidated financial statements and related reports of certain types of undertakings, amending Directive 2006/43/EC of the European Parliament and of the Council and repealing Council Directives 78/660/EEC and 83/349/EEC, the relevant total turnover shall be the total annual turnover or the corresponding type of income pursuant to the relevant accounting directives according to the last available consolidated annual accounts approved by the management body of the ultimate parent undertaking, or
 - up to twice the amount of the profits gained or losses avoided because of the breach, where those can be determined,

whichever is higher;

- (b) in the case of a natural person:
 - up to EUR 2,000,000, or
 - up to twice the amount of the profits gained or losses avoided because of the breach, where those can be determined,

whichever is higher.”³⁵

(Law of 10 May 2016)

“(3) Where obligations of this law apply to legal entities, in the event of a breach, administrative sanctions can be applied to the members of administrative, management or supervisory bodies of the legal entity concerned, and to other individuals who are responsible for the breach under the applicable law.”

³³ Law of 10 May 2016

³⁴ Law of 27 February 2018

³⁵ Law of 10 May 2016

Article 26. Criminal sanctions

The persons who knowingly fail to disclose or to make available to the OAM such information in accordance with this law or who knowingly submit to the CSSF, or make available to the OAM or disclose inaccurate or incomplete information shall incur a fine of between EUR 250 and EUR 125,000.

(Law of 10 May 2016)

"Article 26a. Exercise of sanctioning powers

When determining the type and level of administrative sanctions or measures, the CSSF takes into account all relevant circumstances, including where appropriate:

- (a) the gravity and the duration of the breach;
- (b) the degree of responsibility of the natural person or legal entity responsible;
- (c) the financial strength of the natural person or legal entity responsible, for example as indicated by the total turnover of the legal entity responsible or the annual income of the natural person responsible;
- (d) the importance of profits gained or losses avoided by the natural person or legal entity responsible, in so far as they can be determined;
- (e) the losses sustained by third parties as a result of the breach, in so far as they can be determined;
- (f) the level of cooperation of the natural person or legal entity responsible with the competent authority;
- (g) previous breaches by the natural person or legal entity responsible."

(Law of 10 May 2016)

"Article 26b. Publication of decisions

(1) The CSSF shall publish every decision on sanctions imposed pursuant to Article 25(...) ³⁶ for a breach of this law without undue delay on its website, including at least information on the type and nature of the breach and the identity of natural persons or legal entities responsible for it.

However, the CSSF may delay publication of a decision, or may publish the decision on an anonymous basis in any of the following circumstances:

- (a) where, in the event that the sanction is imposed on a natural person, publication of personal data is found to be disproportionate by an obligatory prior assessment of the proportionality of such publication;
- (b) where publication would seriously jeopardise the stability of the financial system or an ongoing official investigation;
- (c) where publication would, in so far as can be determined, cause disproportionate and serious damage to the institutions or natural persons involved.

(2) If an action against the decision published pursuant to paragraph 1 is taken, the CSSF shall include information to that effect in the publication at the time of the publication or amend the publication if the action is taken after the initial publication.

(3) Any information published pursuant to paragraphs 1 and 2 shall remain on the CSSF website for five years."

³⁶ Law of 27 February 2018

Article 27. Remedies

The Administrative Court can undertake a full review of the merits of the decision adopted by the CSSF in implementation of this law (*recours en pleine juridiction*).

Section II - Provisions relating to companies incorporated in Luxembourg

Article 28. Suspension of voting rights relating to shares in companies incorporated in Luxembourg

(1) As regards companies incorporated in Luxembourg, as long as the information required in accordance with Section I of Chapter III, has not been notified to the issuer in the manner prescribed, the exercise of voting rights relating to the shares exceeding the fraction that should have been notified is suspended. The suspension of the exercise of voting rights is lifted the moment the shareholder makes the notification provided for in Section I of Chapter III.

(2) Where the voting rights of the company incorporated in Luxembourg have been exercised notwithstanding their suspension provided for by the law, the District Court (Tribunal d'arrondissement) in the district in which the company's registered office is located, sitting in commercial matters, may, on request of the company or of one of its shareholders holding voting rights or any other person having a justifiable interest, pronounce the nullity of part or all of the decisions of the general meeting if, without the voting rights exercised unlawfully, the quorum or majority requirements for the decision in question had not been reached. The legal nullity action shall be barred by lapse of five years as of the day on which the voting rights were exercised.

Article 29. Postponement of the general meeting of companies incorporated in Luxembourg

Where, within the fifteen days preceding the date for which the general meeting of a company incorporated in Luxembourg has been convened, such a company receives a notification or becomes aware of the fact that a notification has to be or should have been made in accordance with the provisions of this law, the board of directors or the executive board, as the case may be, may postpone the meeting for up to four weeks. The postponed general meeting is convened in the normal way. The agenda may be completed or amended.

Chapter VII - TRANSITIONAL AND FINAL PROVISIONS

Article 30. Transitional provisions

(1) By way of derogation from Article 4 of Regulation (EC) No 1606/2002 of the European Parliament and of the Council of 19 July 2002 on the application of international accounting standards, the requirements of Article 4 shall only apply for each financial year starting on or after 1 January 2007 for companies incorporated in Luxembourg:

- (a) whose debt securities only are admitted on a regulated market of any Member State within the meaning of Article 4(1)(14) of Directive 2004/39/EC of the European Parliament and of the Council of 21 April 2004 on markets in financial instruments; or
- (b) whose securities are admitted to public trading in a third country and which, for that purpose, have been using internationally accepted standards since a financial year that started prior to 11 September 2002.

(2) By way of derogation from Article 4(3) of this law, issuers referred to in paragraph (1) as well as issuers for which Luxembourg is the home Member State and which are referred to in Article 9 of Regulation (EC) No 1606/2002 of the European Parliament and of the Council of 19 July 2002 on the application of international accounting standards, shall be exempted from disclosing their financial statements in accordance with said Regulation for the financial year starting between 1 January and 31 December 2006.

(3) Notwithstanding Article 14, an issuer for which Luxembourg is the home Member State shall disclose the total number of voting rights and capital at the latest one month after the entry into force of this law.

(4) Notwithstanding Article 11(2), a shareholder shall notify the issuer at the latest two months after the entry into force of this law, of the proportion of voting rights and capital it holds, in accordance with Articles 8, 9 and 12, in the issuer at that date, unless it has already made a notification containing equivalent information before that date.

Notwithstanding Article 11(6), an issuer shall in turn disclose the information received in those notifications no later than three months after the entry into force of this law.

(5) Issuers incorporated in a third country, are exempted only in respect of those debt securities which have already been admitted to trading on a regulated market in the European Union prior to 1 January 2005 from drawing up its financial statements in accordance with Article 3(3) and its management report in accordance with Article 3(5) provided:

- (a) the CSSF acknowledges that annual financial statements prepared by issuers from such a third country give a true and fair view of the issuer's assets and liabilities, financial position and results;
- (b) the third country where the issuer is incorporated has not made mandatory the application of international accounting standards referred to in Article 2 of Regulation (EC) No 1606/2002 of the European Parliament and of the Council of 19 July 2002 on the application of international accounting standards; and
- (c) the European Commission has not taken any decision in accordance with Article 23(4)(ii) of 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 as to whether there is an equivalence between the aforementioned accounting standards; and:
 - the accounting standards laid down in the law, regulations or administrative provisions of the third country where the issuer is incorporated, or
 - the accounting standards of a third country such an issuer has elected to comply with.

(6) Issuers referred to in point (2) of letter A of Part I of Annexe II of the Grand-ducal Regulation of 28 December 1990 on the conditions governing the drawing-up, the control and the distribution of the prospectus to be published when securities are offered to the public or admitted to trading at the point of admission of those debt securities, are exempt from disclosing half-yearly financial reports in accordance with Article 4 for ten years following 1 January 2005 only in respect of those debt securities which have already been admitted to trading on a regulated market of the European Union prior to 1 January 2005.

Article 31. Amending provisions

Article 24(1) of the Law of 23 December 1998 establishing a financial sector supervisory commission ("Commission de surveillance du secteur financier"), as amended, is completed with the following two paragraphs:

"In the cases referred to in points (b) and (c) of Article 4(2) of the Law of 19 May 2006 on the implementation of Directive 2004/25/EC of the European Parliament and of the Council of 21 April 2004 on takeover bids, the CSSF shall also be authorised to meet its operating costs through fees payable by the offeror for handling matters relating to company law, where the company concerned has its registered office in Luxembourg.

The CSSF shall be authorised to meet its operating costs through fees payable by

- issuers as defined by the law on transparency requirements, the person who has applied for admission to trading on a regulated market without the issuer's consent and the persons that must make a notification as set out in Chapter III, Section I of the law on transparency requirements;
- persons discharging managerial responsibilities within an issuer having its registered office in Luxembourg and subject to the obligation to notify transactions conducted on own account relating to shares of the issuer admitted to trading on a regulated market as laid down in the law on market abuse; and
- issuers subject to disclosure obligations relating to buy-back programmes and stabilisation as set out in Commission Regulation (EC) No 2273/2003 of 22 December 2003 implementing Directive 2003/6/EC of the European Parliament and of the Council as regards exemptions for buy-back programmes and stabilisation of financial instruments.”

Article 32. Repealing provision

The Law of 4 December 1992 on the information to be published when a major holding in a listed company is acquired or disposed of, as amended, is repealed.

“Article 33. Final provision

This law is referred to as follows: "Law of 11 January 2008 on transparency requirements for issuers".³⁷

³⁷ Law of 10 May 2016