Commission de Surveillance
du Secteur Financier

CIRCULAR CSSF 08/349

AS AMENDED BY CIRCULAR CSSF 16/638 AND CSSF 22/800

In case of discrepancies between the French and the English text, the French text shall prevail

Commission de Surveillance du Secteur Financier

CIRCULAR CSSF 08/349

RE : Details regarding the information to be notified with respect to major holdings in accordance with the Law of 11 January 2008 on transparency requirements for issuers, as amended

Luxembourg, 4 March 2022

To all the persons concerned

Ladies and Gentlemen,

We are pleased to follow-up on Circular CSSF 08/337 on the Law and Grand-ducal Regulation of 11 January 2008 on transparency requirements for issuers, as amended (hereinafter referred to as the "**Law**" and the "**Grand-ducal Regulation**", respectively) and Commission Delegated Regulation (EU) 2015/761 of 17 December 2014.

In accordance with the provisions of Article 11(1) of the Law, the CSSF defines the content and form of the notification required pursuant to Articles 8 and 9 of the Law. The purpose of this circular is to lay down the requirements in relation to such notification and the disclosure of the total number of voting rights and capital under Article 14 of the Law, as well as the form by a market maker seeking to benefit from the exemption provided for under Article 8(4) of the Law and in order to comply with the requirements laid down in Article 7 of the Grand-ducal Regulation. Moreover, it presents the different cases that may arise in the context of Article 9 of the Law[1] and provides details on certain specific financial instruments referred to in Article 12 of the Law.

The requirements as regards information concerning major holdings apply to shareholders[2], including the holders of depositary receipts representing shares[3] (as for example GDRs, FDRs, etc.), and to issuers of shares[4], including to issuers of underlying shares of depositary receipts[5]. Any reference to shares made in the explanations below shall be understood, within the limits laid down in Articles 8 to 14 of the Law, as including a reference to depositary receipts representing shares.

[1] These provisions only apply to the persons entitled to acquire or dispose of voting rights attached to shares of an issuer whose home Member State is Luxembourg in accordance with the Law. By analogy, the persons who are entitled to acquire or dispose of voting rights attached to shares of an issuer whose home Member State is not Luxembourg, shall comply with the rules applicable in the respective home Member States.

[2] Regardless of whether all or part of the issuer's shares are admitted to trading on a regulated market.

[3] Regardless of whether or not the underlying instrument is admitted on a regulated market.

[4] Cf. note 2.

[5] Cf. note 3.

It should be kept in mind that the provisions of the Law only apply to issuers whose securities are admitted to trading on a regulated market[6]. Moreover, they do 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.

In addition to the details included in this circular, practical details are also set forth in the Questions and Answers published by ESMA on 22 October 2015 (ESMA/2015/1595) and the FAQ relating to the Law and Regulation published on the CSSF website.

1. Standard forms

All regulated information as required by the Law concerning issuers whose home Member State is Luxembourg must be filed with the CSSF *via* eRIIS (**e**lectronic **R**eporting of **I**nformation concerning **I**ssuers of **S**ecurities). How this impacts requirements concerning major holdings is described below for each kind of information[7].

With the exception of section v[8] hereafter, all forms to be completed by the persons concerned are available as online forms to be submitted in eRIIS. Further practical details as to their functioning are provided hereafter.

i. Form to be used for the notification of the acquisition or disposal of major holdings by shareholders[9]

Article 8 of the Law sets out the thresholds that trigger the requirement to notify the proportion of voting rights held by a natural or legal person (the "persons") in the capital of an issuer as a result of the acquisition or disposal of shares to which voting rights are attached. The thresholds laid down by the Law are: 5%, 10%, 15%, 20%, 25%, 33 1/3%, 50% and 66 2/3%. A notification requirement is triggered when one or several thresholds are crossed in the cases provided for in Articles 8, 9, 12 or 12a of the Law. For a general description of the notification requirements of the shareholders and issuers of shares whose home Member State is Luxembourg, reference is made to Circular 08/337.

[6] *Regardless of whether all or part of the issuer's shares are admitted to trading on a regulated market and as regards issuers of securities represented by depositary receipts, regardless of whether or not the underlying instrument is admitted on a regulated market.*

[7] *A general presentation of eRIIS is provided by the Circular CSSF 08/337.*

[8] *Form to be used for the notification of the activity as market maker.*

[9] *Or any other person(s) subject to the notification obligation.*

For the purposes of a notification as mentioned above, the relevant persons shall use the form HOS-1 in eRIIS[10] by complying with the following rules:

- The relevant persons are required to provide information for each point of the HOS-1 form. In case a point is not applicable or the number of voting rights is equal to zero, a mention hereto shall be made in the HOS-1 form.
- The persons referred to in Articles 8 and 9 of the Law, i.e. the shareholders and persons entitled to acquire, to dispose of, or to exercise voting rights in any of the cases (or a combination of them) referred to in Article 9 of the Law, shall indicate this information in table A under point 7[11] of the HOS-1 form[12].
- The persons referred to in Article 12 of the Law, i.e. the holders of specific financial instruments shall indicate this information in tables B 1 and B 2 under point 7[13] of the HOS-1 form. It should be noted that for table B 2, a distinction should be made between financial instruments which confer a right to a physical settlement and financial instruments which confer a right to a cash settlement.
- The persons referred to in Article 12a of the Law[14] shall provide details on the breakdown of voting rights in tables A, B 1 and B 2 under point 7 of the HOS-1 form[15].

It should be stressed that pursuant to Article 12a(2) of the Law, the voting rights attached to specific financial instruments, which have already been notified, shall be notified again when the natural person or the legal entity has acquired the underlying shares and such acquisition results in the total number of voting rights attached to shares issued by the same issuer reaching or exceeding one or several above-mentioned thresholds.

[10] The previously required form (Annex A) for the notification of the acquisition or disposal of major holdings (which was required to be transmitted via e-mail) will no longer be accepted from 30 May 2022. The form HOS-1 Major holding notification is found in eRIIS in the section « Notification for holders of securities ».

[11] That section is available in Part 2. of the HOS-1 form in eRIIS.

[12] It should be specified that the notification shall include the figures per class of shares whereas the threshold that triggers the notification requirement shall be the overall threshold calculated on the basis of all the voting rights held (across all categories).

[13] These sections are available in Part 3. of the HOS-1 form in eRIIS.

[14] I.e. the persons whose number of voting rights attached to the financial instruments referred to in Article 12 of the Law, which are aggregated with the shares held by these persons, in accordance with Articles 8 and 9 of the Law, reaches or exceeds one or several above-mentioned thresholds.

[15] These sections are available in Parts 2. and 3. of the HOS-1 form in eRIIS.

Where the proportion of voting rights held reaches or exceeds the minimum threshold of 5%, it is not necessary to disclose the number of voting rights held before the transaction having triggered the notification requirement, but only that the proportion of voting rights previously held was below the minimum threshold. By analogy, where the proportion of voting rights falls below the minimum threshold of 5%, the resulting situation after the triggering transaction does not need to be specified; but only that the proportion of voting rights held subsequently is below the minimum threshold. The absence of the requirement to disclose the number of voting rights held before or after the transaction shall only apply where, at this point in time, the relevant persons do not reach or exceed, having considered all of the articles in question[16], the thresholds provided for in Article 8 of the Law. If this is not the case, detailed information on the breakdown of voting rights in all tables A, B 1 and B 2 under point 7 shall be provided for information purposes, even if individually they do not either reach or exceed the 5% threshold.

Specifications relating to the different cases referred to in Article 9 of the Law are given under point 2 of this circular.

It is recalled that the notification shall be effected promptly and not later than six trading days[17] following a transaction or no later than four trading days following the disclosure of the information by the issuer of an event resulting in the change of the total number of voting rights.

ii. Means of transmission of the HOS-1 form to the CSSF and to the issuer by shareholders[18]

Once the HOS-1 form is submitted *via* eRIIS to the CSSF, the shareholder's[19] filing with the **CSSF**, as required pursuant to Article 18(1) of the Law, is completed[20].

The notification by the shareholder[21] **to the issuer**, required pursuant to Article 11(2) of the Law, is made on the basis of the extract of the HOS-1 form generated by eRIIS, further to the above-mentioned submission.

For the avoidance of doubt, the sequence of the notification process thus operates as follows:

[16] *Articles 8, 9, 12 and 12a.*

[17] *The six-day time limit results from the joint reading of Article 11(2) of the Law and Article 10 of the Grand-ducal Regulation.*

[18] *Or any other person(s) subject to the notification obligation.*

[19] *Or any other person(s) subject to the notification obligation.*

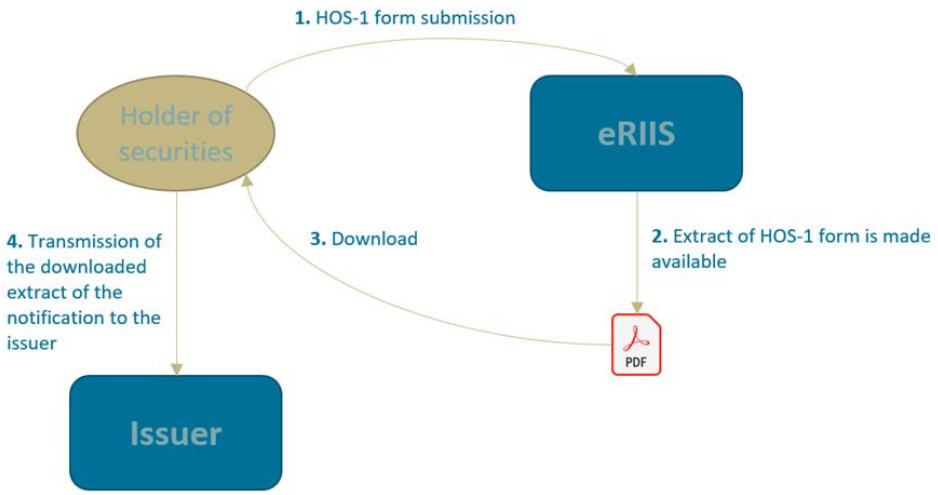
[20] *Without prejudice to any possible follow-up enquiries by the CSSF.*

[21] *Or any other person(s) subject to the notification obligation.*

1) the relevant persons[22] file the necessary information with the CSSF by completing the HOS-1 form in eRIIS;

2) Once that aforementioned filing is submitted, the relevant persons access the HOS-1 form on eRIIS and download a PDF format extract of it (under Menu / Documents / Main). They shall use that document to notify the issuer pursuant to Article 11(2) of the Law.

The following chart illustrates the relevant workflow:



iii. Means of filing to the CSSF by the issuer

It is reminded that, in accordance with Article 11(6) of the Law, issuers are required to make public notifications of major holdings upon their receipt but no later than three trading days thereafter.

When filing the aforementioned publication with the CSSF (pursuant to Article 18(2) of the Law), the issuer shall use the eRIIS form TRA-O1. Said form will request the issuer to indicate the "Major shareholding notification - CSSF reference number" which corresponds to the filing reference indicated on the PDF extract of the notification form[23] received by the issuer from the shareholder[24].

In the TRA-O1 form the issuer shall provide all requested metadata, attach the document which has been disclosed to the public under "Documents / Main" and attach any additional information under "Appendix". As such, in case the issuer

[22] *Shareholders or other persons subject to the notification obligation.*

[23] *i.e. the PDF extract of the HOS-1 form generated by eRIIS.*

[24] *Or any other person(s) subject to the notification obligation.*

has published a press release to fulfil its requirements under Article 11(6), instead of the HOS-1 form received from the shareholder itself, said form may be added under "Appendix".

iv. Form to be used for the disclosure of the total number of voting rights and capital

By virtue of Article 14 of the Law and for the purpose of calculating the thresholds provided for in Article 8 of the Law, issuers whose home Member State is Luxembourg shall calculate and publish 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. This publication shall take place no later than the last day of the month and shall be deemed fulfilled if the issuer proceeds to it during the month, except if another change occurs between the date of this publication and the end of the month, in which case the issuer should make a new publication.

Publications pursuant to Article 14 of the Law necessarily need to include the information listed in ANNEX B to this circular.

For the calculation referred to in the first paragraph, the issuers shall apply the following rules:

- The notion of "total number of voting rights" refers to the total number of voting rights attaching to the shares composing the share capital of the notifying issuer, including the suspended voting rights[25]. The "total capital" shall be the total number of shares composing the share capital of the notifying issuer.
- The notion thus also includes the voting rights attaching to own shares held by the issuer and whose voting right is suspended. For companies incorporated under Luxembourg law, it concerns own shares where the voting rights are suspended by virtue of Article 49-5(1)(a) of the Law of 10 August 1915 on commercial companies ("the **LCC**"). Without prejudice to Article 13 of the Law, the issuer is not required to differentiate between own shares and other shares for the disclosure of the total number of voting rights and capital.
- The voting right which, in the context of specific decisions set out in Article 46(1) of the LCC, is attached to shares representing capital without voting rights of a Luxembourg company, shall not be included in the total number of voting rights, without prejudice to the obligation

[25] *Even though the participating shares referred to in Article 37 of the Law on commercial companies are not part of the capital, the voting rights that might be attached thereto must be included in the total number of voting rights, where applicable.*

of the issuer to take them into account when providing information referred to in Article 16(2)(a) of the Law where resolutions concerning the issues referred to in Article 46(1) of the LCC are on the agenda of the general meeting.

– As soon as holders of shares without voting rights recover the same voting right as holders of ordinary shares, that voting right must be included in the total number of voting rights (as long as the voting right continues).

When filing the aforementioned publication required under Article 14 of the Law with the CSSF (pursuant to Article 18(2) of the Law), the issuer shall use the eRIIS form TRA-O3. The document which has been disclosed to the public shall be attached under "Documents / Main" in the form and all requested metadata shall be provided in eRIIS.

v. Form to be used for the notification of the activity as market maker

Article 8(4) of the Law provides that, under certain circumstances, the notification requirement set out in the first paragraph of that Article shall not apply to market makers for the acquisition or disposal of a major holding reaching or crossing the 5% threshold. Pursuant to Article 7 of the Grand-ducal Regulation, the market maker seeking to benefit from the above exemption shall notify to the CSSF, where Luxembourg is the home Member State of the issuer concerned, that it conducts or intends to conduct market making activities on a particular issuer. The same applies where the market maker ceases to conduct market making activities in respect of the issuer concerned.

In both cases, market makers shall use the form in ANNEX C to this circular. As long as the market maker has access to eRIIS, it shall transmit the form in question *via* the « Documents » module of eRIIS; otherwise, the form should be transmitted per email to transprency@cssf.lu.

It should be noted that Articles 2 and 3 of Commission Delegated Regulation (EU) 2015/761 of 17 December 2014 supplementing Directive 2004/109/EC of the European Parliament and of the Council with regard to certain regulatory technical standards on major holdings (hereinafter "**RTS on major holdings**") provide details on the calculation of the 5 % threshold referred to in Article 8(4).

vi. eRIIS filing issues and communications with the CSSF

Should any practical and/or technical problem prevent persons from filing information *via* eRIIS, such filing with the CSSF can on an exceptional basis be done per e-mail to the address transparency@cssf.lu. Given that it is not possible to use the HOS-1 form in this case, the ESMA form "standard form for major holdings" can be used for the temporary filing. This backup solution is meant as a temporary remedy in case of difficulties relating to the operation of

eRIIS[26]. The persons concerned will nonetheless be required to re-submit the information in question *via* eRIIS as soon as the issues are resolved.

However, under normal circumstances, all information as required by the Law must be filed with the CSSF *via* eRIIS as from 30 May 2022 and all communications with the CSSF must be done *via* eRIIS. Doing so will guarantee the safety of these exchanges and assure an appropriate and prompt treatment.

It should be noted that the CSSF encourages the use of eRIIS from 4 March 2022 but the filing per email will remain possible until 30 May 2022 to allow for sufficient time to complete all administrative tasks linked to accessing eRIIS.

2. Notification requirement in the cases referred to in Article 9 of the Law

The persons entitled to exercise voting rights in accordance with Article 9 of the Law have to add these voting rights to those already held pursuant to Article 8.

As regards the different cases referred to in Article 9 of the Law, Article 9 of the Grand-ducal Regulation specifies certain circumstances in which the notification of major holdings must be made by the different persons and in the different situations listed in that Article. Where the duty to make a notification lies with more than one person, notification may be made by means of a single common notification. Nevertheless, each person having the obligation to notify remains individually responsible for ensuring that the content of the common notification is accurate and that it is made within the time limit and in accordance with the rules provided for in the Law and Grand-ducal Regulation.

In practice, the notification requirement applies to the following persons (if, following the event referred to in the respective articles, the proportion of voting rights held by these persons reaches, exceeds or falls below one of the thresholds referred to in Article 8):

- *Article 9(a) of the Law*

In the circumstances referred to in letter (a) of Article 9 of the Law, the notification requirement shall be a collective obligation shared by all parties to the agreement. Thus, all parties to the agreement must make a notification. These notifications may be made by means of a single common notification. In this case, the persons should be free to determine who, among them, will actually make the notification.

[26] *In the case where eRIIS is unavailable, a notification of major holdings may temporarily be filed by means of the relevant ESMA form.*

Moreover, all parties to the agreement are responsible for making a notification to the CSSF and to the issuer when the agreement comes to an end. Again, a single common notification shall be sufficient.

– *Article 9(b) of the Law*

The circumstances foreseen in Article 9(b) trigger the notification requirement at the same time for the person that acquires voting rights and is entitled to exercise them under an agreement and for the person transferring the voting rights temporarily and for consideration.

Under the terms of the agreement, both persons are required to notify the situation resulting from the termination of the agreement.

– *Article 9(c) of the Law*

If the person holding shares which are lodged as collateral controls the voting rights attaching thereto and declares its intention of exercising them, it is subject to the notification requirement. The person lodging the shares shall also notify the disposal of the rights attaching to these shares. A notification must also be made when the shares and voting rights attaching thereto are returned to the owner of the shares.

On the other hand, if the person lodging the shares as collateral maintains control and exercises the voting rights attaching to these shares, no notification is required.

– *Article 9(d) of the Law*

If the person having the usufruct in shares also holds the right to exercise the voting rights attaching thereto, it is subject to the notification requirement. In this case, the same applies to the person disposing of voting rights when the life interest is created. Both persons must make a notification when the life interest ends.

If no transfer of voting rights is involved, no notification is required.

– *Article 9(e) of the Law*

Without prejudice to Article 11(4) and (5), the person controlling an undertaking, including, inter alia, the ultimate beneficial owner of the voting rights, is required to aggregate its holdings with those held by the undertakings controlled. The notification to be made in accordance with Article 11(1) of the Law includes in this case the chain of controlled undertakings[27] through which

[27] *The controlling person making the notification is always required to indicate all the names of the intermediary companies directly or indirectly controlled by it and is required to indicate the proportion of the voting rights of each of these entities in the issuer with a holding exceeding or equal to the minimum threshold of 5%.*

voting rights are effectively held (point 8 of the HOS-1 form). The entire chain of controlled undertakings, starting with the ultimate beneficial owner of the voting rights, shall also be presented in the cases where a subsidiary individually exceeds or reaches one or several thresholds in order to always provide a complete and comprehensive picture of the group's holdings. In the case where the group's structure is very complex, the holder shall attach an organisational chart of the group to the notification.

In this context, the notification requirements of major holdings, provided for in Article 8, shall also apply to the ultimate beneficial owners (natural or legal persons) of the voting rights, held indirectly within the meaning of Article 9(e). The notion of controlled undertaking shall be understood in the meaning of the definition provided for in Article 1(4) of the Law.

In the circumstances referred to in Article 9(e) of the Law, the following two cases may arise:

- The controlled undertakings have an individual notification requirement

Where holdings of a controlled undertaking alone trigger the notification requirement in accordance with Articles 8, 9, letters (a), (b), (c) or (d), 12 and/or 12a of the Law, the controlled undertaking and the controlling person(s) are subject to the notification requirement. It should be noted that in accordance with Article 11(3) of the Law, a controlled undertaking is exempted from making the required notification if the notification is made by the parent undertaking in the name and on behalf of the controlled undertaking. It should be noted that the exemption provided for in Article 11(3) shall also apply when the notification is made in the name and on behalf of the controlled undertaking by the ultimate beneficial owner of the voting rights, in particular, if the latter is a natural person.

- The controlled undertakings do not have an individual notification requirement

Where the controlled undertakings do not individually reach one of the thresholds provided for in Article 8 of the Law, the controlled undertakings are not individually subject to the notification requirement.

However, if by aggregating the direct or indirect holdings, one of the thresholds provided for in Article 8 is crossed, the controlling person which is entitled to exercise the voting rights attaching to the holdings of the undertakings controlled shall make a notification where either the total holdings of the controlled undertakings alone, or the sum of this total and of its own holdings crosses one of the thresholds provided for in Article 8 of the Law.

– *Article 9(f) of the Law*

Where shares to which voting rights are attached are deposited with a third person, no notification is required if the voting rights remain with the person that deposits its shares.

If, on the other hand, the deposit taker may exercise the voting rights at his/her discretion pursuant to an agreement[28] entered into with the depositor, the former, as well as the person having disposed of its voting rights, are required to make a notification.

However, if the deposit taker exercises the voting rights, in accordance with the instructions received from the depositor, no notification is required.

Where the entitlement to exercise voting rights has been transferred, the persons having crossed one of the thresholds provided for in Article 8 of the Law are required to make a notification when the entitlement to exercise voting rights is transferred back to the shareholder.

– *Article 9(g) of the Law*

In the circumstance foreseen in Article 9(g) of the Law, the person that actually holds the voting rights and is therefore entitled to exercise the voting rights, in its name or in the name of another person, is required to make a notification if one of the thresholds provided for in Article 8 of the Law is crossed. In this case a transfer of ownership of the securities concerned is not necessary.

Where the voting rights are transferred and thresholds crossed, all the parties having crossed one of the thresholds referred to in Article 8 of the Law are required to make a notification. However, the notification requirements of the different parties may be met by way of a single notification, provided that this single declaration includes all the information required in order to give a complete and comprehensive picture of the situation.

– Article 9(h) of the Law

If the proxy holder may exercise voting rights in the absence of contrary instructions from the shareholder, a notification is required. The same applies to the shareholder who has explicitly conferred its voting rights on the proxy holder.

Upon termination of the agreement, both parties are again subject to the notification requirement when crossing a threshold.

It should be noted that if voting rights are conferred on a proxy holder on one occasion only (e.g. general meeting), the proxy holder as well as the shareholder may make one single notification in which they confirm that the voting rights are only transferred on a temporary basis and for a unique occasion

[28] *For example, in the context of a custody agreement or general terms and conditions.*

(which must be specified). They shall also specify what the situation will be after the unique exercise of the voting right.

3. Specific financial instruments referred to in Article 12 of the Law

The notification requirements laid down in Article 8 of the Law shall also apply to a natural or legal person that holds, directly or indirectly:

- financial instruments that, on maturity, give the holder, under a formal agreement, either an unconditional right to acquire or the discretion as to his right to acquire, shares to which voting rights are attached and already issued; and/or
- financial instruments which are not included in the first indent above but which are referenced to shares referred to in this indent and with economic effect similar to that of the financial instruments referred to in this indent, whether or not they confer a right to a physical settlement.

The exemptions provided for in Articles 8[29] and 11[30] of the Law also apply in the context of Article 12.

Article 12(3) of the Law specifies that the term "financial instrument" (meeting the criteria set forth in one of the above-mentioned indents) refers to transferable securities, options, futures, swaps, forward rate agreements, contracts for differences and any other contracts or agreements with similar economic effects which may be settled physically or in cash, provided that they meet any of the conditions set out above.

Moreover, only instruments that fulfil the following conditions are concerned by the first indent above:

- They give the right to acquire and not to sell. A put option is thus not considered as a financial instrument in accordance with Article 12 of the Law. Instruments resulting in an entitlement to sell shall thus not be considered at all when calculating the proportion of the potential voting rights. Thus, a call option and a put option referring to the shares of a same issuer do not cancel each other out. The person holding these two instruments must only consider the option to acquire underlying shares when calculating the proportion referred to in Article 8 of the Law.
- They give an unconditional right to the holder or a discretion as to his right but not to the issuer or a third party.

[29] *Paragraphs 3, 4 and 5.*

[30] *Paragraphs 3, 4 and 5.*

- It is an unconditional right or a discretion as to the right to acquire the underlying shares. In the case of an unconditional right, the exercise of this right can thus not depend on external factors, such as the price of the underlying share for example. However, the ability to acquire underlying shares refers to the agreements which provide for the mere possibility of a physical settlement, i.e. in shares.
- The unconditional right or discretion as to the right to acquire the underlying shares must be provided for in a formal agreement, i.e. pursuant to an agreement which is binding under the law.

It should be noted that ESMA has drawn up and regularly updates an indicative list of financial instruments that are subject to the notification requirements according to Article 12(1). This list is available on ESMA's website or the CSSF website (section *Markets → Topics → Information requirements for issuers of securities → Documentation → Useful links*).

As far as the specific financial instruments referred to in Article 12 are concerned, it is noted that the number of voting rights shall, in principle, be calculated by reference to the full notional amount of underlying shares.

Financial instruments providing exclusively for a cash settlement, constitute an exception to this rule. In this case, the number of voting rights shall be calculated on a delta-adjusted basis, by multiplying the notional number of underlying shares by the delta of the instrument[31]. When notifying specific financial instruments providing exclusively for a cash settlement, the holder shall follow the instructions below:

- s/he shall aggregate and notify all the financial instruments relating to the same underlying issuer;
- in the same way as for the other financial instruments referred to in Article 12, only the 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;
- the number of voting rights shall be calculated in accordance with the provisions of the RTS on major holdings, and
- in the case where the holder in question has already made a notification for the same issuer and changes his/her generally accepted standard

[31] *Upon request by the CSSF, the holder may be required to provide it with precise information on the determination of the delta, as provided for in Article 12(2) of the Law and Article 5 of the major holdings RTS.*

pricing model referred to in Article 5 of the RTS on major holdings, a mention hereto shall be made in his/her notification.

Finally, the notification only mentions the identity of the issuer of the underlying shares which may be acquired and not the identity of the issuer of the financial instruments.

4. European documentation

In addition to the various specifications already outlined in this circular, it should be noted that Articles 2, 3 and 6 of the RTS on major holdings further clarify the exemption provided for in Article 8(5) of the Law concerning the voting rights held in the trading book.

Article 4 of the RTS on major holdings provides details on the calculation of the voting rights in the event of financial instruments referenced to a basket of shares or an index.

The table below includes the different articles of the RTS on major holdings and the articles of the Law to which they relate:

RTS on major holdings	Law
Article 2 Aggregation of holdings	Article 8(4) and (5)
Article 3 Aggregation of holdings in the case of a group	Article 8(4) and (5)
Article 4 Financial instruments referenced to a basket of shares or an index	Article 12(2)
Article 5 Financial instruments which provide exclusively for a cash settlement	Article 12(2)
Article 6 Client-serving transactions	Article 8(5)

As a reminder, ESMA has drawn up and regularly updates an indicative list of financial instruments that are subject to notification requirements in accordance with Article 12(1).

Moreover, ESMA published on 22 October 2015 Questions and Answers (ESMA/2015/1595) that provide more practical details as regards the notification requirements for major holdings.

Yours faithfully,

COMMISSION DE SURVEILLANCE DU SECTEUR FINANCIER

Claude WAMPACH Directeur	**Marco ZWICK** Directeur	**Jean-Pierre FABER** Directeur

Françoise KAUTHEN Directeur	**Claude MARX** Directeur général

Annexes :

Annex A:	(deleted)
Annex A bis:	(deleted)
Annex B:	Information required to be included for the disclosure of the total number of voting rights and capital
Annex C:	Form to be used for the notification by market makers

Commission de Surveillance du Secteur Financier

ANNEX A (deleted)

ANNEX A bis (deleted)

Commission de Surveillance du Secteur Financier

ANNEX B

Information required to be included for the disclosure of the total number of voting rights and capital, in accordance with the Law and Grand-ducal Regulation of 11 January 2008 on transparency requirements for issuers

1. Identity of the issuer or the underlying issuer of existing shares to which voting rights are attached[i] (including the issuer reference number allocated by the CSSF)
2. Identity of the notifier (if another person makes the notification on behalf of the issuer)
3. Total number of shares composing the share capital of the notifying issuer
4. Total number of voting rights attached to the shares composing the share capital of the notifying issuer, including the suspended voting rights[ii]
5. Total number of voting rights, excluding suspended voting rights (exercisable voting rights) (optional)
6. Origin of the change[iii]
7. Date when the change occurred
8. In the previous notification (optional)
   - the total number of shares was of
   - the total number of voting rights was of

the total number of exercisable voting rights was of

---

[i] Either the full name of the legal entity or another method for identifying the issuer or underlying issuer, provided it is reliable and accurate.
[ii] For further details on the total number of voting rights, please refer to point 1(b) of Circular CSSF 08/349.
[iii] As, for example, a capital increase or reduction.

Commission de Surveillance du Secteur Financier

ANNEX C

Form to be used for the notification by market makers, to be filed in accordance with the Law and Grand-ducal Regulation of 11 January 2008 on transparency requirements for issuers

1. Identity of the Market Maker:

Full name (including legal form for legal entities): .....

Contact address (registered office for legal entities): .....

Phone number, fax and e-mail address: .....

Other useful information (at least a contact person for legal persons): .....

2. Identity of the notifier [if another person makes the notification on behalf of the market maker mentioned in point (1)]:

Full name: .....

Contact address: .....

Phone number, fax and e-mail address: .....

Other useful information (e.g. functional relationship with the person or legal entity subject to the notification obligation): .....

3. Reason for notification

[ ] The Market Maker mentioned in point (1) intends to conduct market making activities in relation to the following issuer:

[ ] The Market Maker mentioned in point (1) ceases to conduct market making activities in relation to the following issuer:

Issuer	

4. Where the Market Maker mentioned in point (1) intends to conduct market making activities, please indicate:

– the Competent Authority that authorised the Market Maker under Directive 2004/39/EC ……

– when this authorisation was obtained: ……

5. The Market Maker mentioned in point (1) declares that it does not intervene in the management of the issuer identified in (3) nor exerts any influence on that issuer to buy such shares or back the share price.

Done at [*place*] on [*date*]

Commission de Surveillance du Secteur Financier
283, route d'Arlon
L-2991 Luxembourg (+352) 26 25 1-1
direction@cssf.lu
www.cssf.lu