

Chapter 13

Contents of circulars:
Premium listing

13.5 Financial information in Class 1 Circulars

When financial information must be included in a class 1 circular

- 13.5.-1 **G** For the purposes of ■ LR 13.5, references to consolidation include both consolidation and proportionate consolidation.
- 13.5.1 **R** Financial information, as set out in this section, must be included by a *listed company* in a *class 1 circular* if:
- (1) the *listed company* is seeking to acquire an interest in a *target* which will result in a consolidation of the *target's* assets and liabilities with those of the *listed company*; or
 - (2) the *listed company* is seeking to dispose of an interest in a *target* which will result in the assets and liabilities which are the subject of the disposal no longer being consolidated; or
 - (3) the *target* ("A") has itself acquired a *target* ("B") and:
 - (a) A acquired B within the three year reporting period set out in ■ LR 13.5.13R (1) or after the date of the last published accounts; and
 - (b) the acquisition of B, at the date of its acquisition by A, would have been classified as a *class 1 acquisition* in relation to the *listed company* at the date of acquisition of A by the *listed company*.
- 13.5.2 **G** [deleted]
- 13.5.3 **G** [deleted]
- 13.5.3A **R** When a *listed company* is acquiring an interest in a *target* that will be accounted for as an investment, or disposing of an interest in a *target* that has been accounted for as an investment, and the *target's securities* that are the subject of the transaction are admitted to an investment exchange that enables intra-day price formation, the *class 1 circular* should include:
- (1) the amounts of the dividends or other distributions paid in the last three years; and

- (2) the price per *security* and the imputed value of the entire holding being acquired or disposed of at the close of business at the following times:
 - (a) on the last *business day* of each of the six months prior to the issue of the *class 1 circular*;
 - (b) on the day prior to the announcement of the transaction; and
 - (c) at the latest practicable date prior to the submission for approval of the *class 1 circular*.

13.5.3B **R** When a *listed company* is acquiring or disposing of an interest in a *target* that was or will be accounted for using the equity method in the *listed company's* annual consolidated accounts, the *class 1 circular* should include:

- (1) for an acquisition,
 - (a) a narrative explanation of the proposed accounting treatment of the *target* in the *issuer's* next audited consolidated accounts;
 - (b) a *financial information table* for the *target*;
 - (c) a statement that the *target* financial information has been audited and reported on without modification or a statement addressing ■ LR 13.4.2 R and ■ LR 13.5.25 R with regard to any modifications; and
 - (d) a reconciliation of the financial information and opinion thereon in accordance with ■ LR 13.5.27R (2)(a) or, where applicable, a statement from the *directors* in accordance with ■ LR 13.5.27R (2)(b);
- (2) for a disposal, the line entries relating to the *target* from its last audited consolidated balance sheet and those from its audited consolidated income statement for the last three years together with the equivalent line entries from its interim consolidated balance sheet and interim consolidated income statement, where the *issuer* has published subsequent interim financial information.

13.5.3C **R** A *listed company* that is entering into a *class 1 transaction* which falls within ■ LR 13.5.1 R, ■ LR 13.5.3A R or ■ LR 13.5.3B R but cannot comply with ■ LR 13.5.12 R (inclusion of financial information table) or, for an investment, ■ LR 13.5.3AR (2) (inclusion of price per *security* and the imputed value of the entire holding), must include an appropriate independent valuation of the *target* in the *class 1 circular*.

13.5.3D **G** The *FCA* may dispense with the requirement for an independent valuation under ■ LR 13.5.3C R if it considers that this would not provide useful information for shareholders, in which case the *class 1 circular* must include such information as the *FCA* specifies.

Accounting policies

13.5.4 **R** (1) A *listed company* must present all financial information that is disclosed in a *class 1 circular* in a form that is consistent with the accounting policies adopted in its own latest annual consolidated accounts.

- (2) The requirement set out in (1) does not apply when financial information is presented in accordance with:
- (a) ■ DTR 4.2.6 R, in relation only to financial information for the *listed company* presented for periods after the end of its last published annual accounts; or
 - (b) ■ LR 13.3.3 R (in relation to pro forma financial information); or
 - (c) ■ LR 13.5.27 R or ■ LR 13.5.30 R (in relation to financial information presented for entities that are *admitted to trading* on a regulated market or admitted to an appropriate *multilateral trading facility* or overseas investment exchange); or
 - (d) ■ LR 13.5.30B R (in relation to financial information on disposal entities extracted from financial records from previous years); or
 - (e) ■ LR 13.5.3A R or ■ LR 13.5.3B R (in relation to *targets* that are or will be treated as investments or accounted for using the equity method in the *listed company's* consolidated accounts); or
 - (f) the accounting policies to be used in the *issuer's* next financial statements, provided the *issuer's* last published annual consolidated accounts have been presented on a restated basis consistent with those to be used in its next accounts on or before the date of the *class 1 circular*; or
 - (g) ■ LR 13.5.32 R (in relation to a *profit forecast* or a *profit estimate*).

13.5.5 G Accounting policies include accounting standards and accounting disclosures.

Source of information

13.5.6 R A *listed company* must cite the source of all financial information that it discloses in a *class 1 circular*.

13.5.7 G In complying with ■ LR 13.5.6 R a *listed company* should:

- (1) state whether the financial information was extracted from accounts, internal financial accounting records, internal management accounting records, an external or other source;
- (2) state whether financial information that was extracted from audited accounts was extracted without material adjustment; and
- (3) indicate which aspects of the financial information relate to:
 - (a) historical financial information;
 - (b) forecast or estimated financial information; or
 - (c) pro forma financial information prepared in accordance with Annex 1 and Annex 20 of the *PR Regulation*;
 with reference made to where the basis of presentation can be found.

13.5.8 R If financial information has not been extracted directly from audited accounts, the *class 1 circular* must:

- (1) set out the basis and assumptions on which the financial information has been prepared; and
- (2) include a statement that the financial information is unaudited or not reported on by an accountant.

13.5.9 **R** A *listed company* must provide investors with all necessary information to understand the context and relevance of non-statutory figures, including a reconciliation to statutory equivalents.

Synergy benefits

13.5.9A **R** Where a *listed company* includes details of estimated synergies or other quantified estimated financial benefits expected to arise from a transaction in a *class 1 circular*, it must also include in the *class 1 circular*:

- (1) the basis for the belief that those synergies or other quantified estimated financial benefits will arise;
- (2) an analysis and explanation of the constituent elements of the synergies or other quantified estimated financial benefits (including any costs) sufficient to enable the relative importance of those elements to be understood, including an indication of when they will be realised and whether they are expected to be recurring;
- (3) a base figure for any comparison drawn;
- (4) a statement that the synergies or other quantified estimated financial benefits are contingent on the *class 1 transaction* and could not be achieved independently; and
- (5) a statement that the estimated synergies or other quantified estimated financial benefits reflect both the beneficial elements and relevant costs.

Prominence of information

13.5.10 **R** A *listed company* must give audited historical financial information greater prominence in a *class 1 circular* than any forecast, estimated, pro forma or non-statutory financial information.

Summary of financial information

13.5.11 **R** A *listed company* that provides a summary of financial information in a *class 1 circular* must include in the *circular* a statement that investors should read the whole document and not rely solely on the summarised financial information.

Financial information table

13.5.12 **R** A *listed company* that is required by **LR 13.5.1 R** or **LR 13.5.3BR (1)** to produce financial information in a *class 1 circular* must include in the *circular* a *financial information table*.

Class 1 acquisitions

13.5.12A **R** ■ LR 13.5.13 R to ■ LR 13.5.30 R apply only in relation to a *class 1 acquisition*.

Financial information table: reporting period

13.5.13 **R** A *financial information table* for a *class 1 acquisition* must cover one of the following reporting periods:

- (1) a period of three years up to the end of the latest financial period for which the *target* or its parent has prepared audited accounts; or
- (2) a lesser period than the period set out in (1) if the *target's* business has been in existence for less than three years.

Financial information table: class 1 acquisitions

13.5.14 **R** A *listed company* must include, in a *financial information table*, financial information that covers:

- (1) the *target*; and
- (2) the *target's subsidiary undertakings*, if any.

13.5.15 **R** [deleted]

13.5.16 **R** [deleted]

13.5.17 **G** [deleted]

13.5.17A **R** If the *target* has made an acquisition or a series of acquisitions that were made during, or subsequent to, the reporting periods set out in ■ LR 13.5.13 R the *listed company* must include additional *financial information tables* so that the financial information presented by the *listed company* represents at least 75% of the enlarged *target* for the period from the commencement of the relevant three year reporting period set out in ■ LR 13.5.13R (1) up to the date of the acquisition by the *listed company* or the last balance sheet date presented by it under LR ■ LR 13.5.13R (1), whichever of the two is earlier.

13.5.17B **G** For the purposes of assessing whether the financial information presented in accordance with ■ LR 13.5.17A R represents at least 75% of the enlarged *target* the FCA will take into account factors such as the assets, profitability and market capitalisation of the business.

13.5.18 **R** A *listed company* must ensure that a *financial information table* includes, for each of the periods covered by the table:

- (1) a balance sheet and its explanatory notes;
- (2) an income statement and its explanatory notes;

- (3) a cash flow statement and its explanatory notes;
- (4) a statement showing either all changes in equity or changes in equity other than those arising from capital transactions with owners and distributions to owners;
- (5) the accounting policies; and
- (6) any additional explanatory notes.

13.5.19 **R** [deleted]

13.5.20 **G** [deleted]

Financial information table: accountant's opinion.....

13.5.21 **R** Unless **LR 13.5.3A R**, **LR 13.5.3B R** or **LR 13.5.27 R** applies, a *financial information table* must disclose how the accounting policies used conform with **LR 13.5.4 R** and be accompanied by an accountant's opinion as set out in **LR 13.5.22 R**.

13.5.22 **R** An accountant's opinion must set out whether, for the purposes of the *class 1 circular*, the *financial information table* gives a true and fair view of the financial matters set out in it.

13.5.23 **R** An accountant's opinion must be given by an independent accountant who is qualified to act as an auditor.

13.5.24 **G** An accountant will be independent if he or she complies with the standards and guidelines on independence issued by its national accountancy and auditing bodies.

13.5.25 **R** If the accountant's opinion required by **LR 13.5.21 R** is modified or contains an emphasis-of-matter paragraph, details of all material matters must be set out in the *class 1 circular*, including:

- (1) all the reasons for the modification or emphasis-of-matter paragraph; and
- (2) a quantification of the effects, if both relevant and practicable.

13.5.26 **R** If the historical financial information of a *target* that falls within **LR 13.5.14 R** or **LR 13.5.17A R** is subject to a *modified report*, details of the material matters giving rise to the modification or emphasis-of-matter paragraph must be set out in the *class 1 circular*.

Acquisitions of publicly traded companies

13.5.27 **R**

- (1) ■ LR 13.5.27R (2) applies where the *target* is:
- (a) *admitted to trading on a regulated market*; or
 - (b) a *company* whose *securities* are either listed on an investment exchange that is not a *regulated market* or admitted to a *multilateral trading facility*, where appropriate standards as regards the production, publication and auditing of financial information are in place;
- and none of the financial information included in the *target's financial information table* is subject to a *modified report*, except where a dispensation has been granted under ■ LR 13.5.27C R.
- (2) Where ■ LR 13.5.27R (1) or ■ LR 13.5.3BR (1) applies the *listed company* must include in the *class 1 circular* either:
- (a) a reconciliation of financial information on the *target* for all periods covered by the *financial information table* on the basis of the *listed company's* accounting policies, accompanied by an accountant's opinion that sets out:
 - (i) whether the reconciliation of financial information in the *financial information table* has been properly compiled on the basis stated; and
 - (ii) whether the adjustments are appropriate for the purpose of presenting the financial information (as adjusted) on a basis consistent in all material respects with the *listed company's* accounting policies; or
 - (b) a statement by the *directors* that no material adjustment needs to be made to the *target's* financial information to achieve consistency with the *listed company's* accounting policies.

13.5.27A **G**

The *FCA* will make its assessment of whether the accounting and other standards applicable to an investment exchange or *multilateral trading facility* as a result of *securities* being admitted to trading are appropriate for the purpose of ■ LR 13.5.27R (1)(b) having regard to at least the following matters in relation to the legal and regulatory framework applying to the *target* by virtue of its admission to that market:

- (1) the quality of auditing standards compared with International Standards on Auditing;
- (2) requirements for independence of auditors;
- (3) the nature and extent of regulation of audit firms;
- (4) the quality of accounting standards compared with International Financial Reporting Standards;
- (5) the requirements for the timeliness of publication of financial information;
- (6) the presence and effectiveness of monitoring of the timely production and publication of the accounts; and

(7) the existence and level of external independent scrutiny of the quality of accounts and the disclosures therein.

13.5.27B **R** Where a *listed company* proposes to rely on ■ LR 13.5.27R (1)(b), its *sponsor* must submit to the *FCA* an assessment of the appropriateness of the standards applicable to an investment exchange or *multilateral trading facility* against the factors set out in ■ LR 13.5.27AG (1) to ■ (7) and any other matters that it considers should be noted. The assessment must be submitted before or at the time the *listed company* submits the draft *class 1 circular*.

13.5.27C **R** The *FCA* may grant a dispensation from ■ LR 13.5.27R (1) to allow the application of ■ LR 13.5.27R (2) where a *modified report* on the *target's* financial information has been produced. In such circumstances the *FCA* will have regard to the factors set out in ■ LR 6.2.5G.

13.5.28 **R** [deleted]

13.5.29 **G** [deleted]

Half-yearly and quarterly financial information

13.5.30 **R** If a *class 1 circular* includes half-yearly or quarterly or other interim financial information for the *target*, the financial information should be presented in accordance with ■ LR 13.5.4R (1) and be accompanied by a confirmation from the *directors* of the consistency of the accounting policies with those of the *issuer*, except:

- (1) where ■ LR 13.5.27R (1) applies, the financial information should be presented in accordance with ■ LR 13.5.27R (2) except that no accountant's opinion is required; or
- (2) where ■ LR 13.5.3B R applies, the financial information should be presented in accordance with ■ LR 13.5.3BR (1)(b) and ■ LR 13.5.3BR (1)(d).

Class 1 disposals

13.5.30A **R** ■ LR 13.5.30B R to ■ LR 13.5.30D G apply only in relation to a *class 1 disposal*.

13.5.30B **R**

- (1) In the case of a *class 1 disposal*, a *financial information table* must include for the *target*:
 - (a) the last annual consolidated balance sheet;
 - (b) the consolidated income statements for the last three years drawn up to at least the level of profit or loss for the period; and
 - (c) the consolidated balance sheet and consolidated income statement (drawn up to at least the level of profit or loss for the period) at the *issuer's* interim balance sheet date if the *issuer* has published interim financial statements since the publication of its last annual audited consolidated financial statements.

- (2) The information in (1) must be extracted without material adjustment from the consolidation schedules that underlie the *listed company's* audited consolidated accounts or, in the case of (c), the interim financial information, and must be accompanied by a statement to this effect.
- (3) If the information in (1) is not extracted from the consolidation schedules it must be extracted from the *issuer's* accounting records and where an allocation is made, the information must be accompanied by:
 - (a) an explanation of the basis for any financial information presented; and
 - (b) a statement by the *directors* of the *listed company* that such allocations provide a reasonable basis for the presentation of the financial information for the *target* to enable shareholders to make a fully informed voting decision.
- (4) If the *target* has not been owned by the *listed company* for the entire reporting period set out in (1)(b), the information required by (1) or (3) may be extracted from the *target's* accounting records.

13.5.30C **R** Where a change of accounting policies has occurred during the period covered by the *financial information table* required by **LR 13.5.30B R** the financial information must be presented on the basis of both the original and amended accounting policies for the year prior to that in which the new accounting policy is adopted unless the change did not require a restatement of the comparative. Therefore the *financial information table* should have four columns (or more where changes have occurred in more than one year).

13.5.30D **G** The *FCA* may modify **LR 13.5.30BR (1)(b)** and **(c)** where it is not possible for the *listed company* to provide a meaningful allocation of its costs in the *target's* audited consolidated income statements. The *class 1 circular* should contain a statement to this effect where this modification has been granted. The *FCA* would not normally expect to grant such modifications except in respect of non-operating costs such as finance costs and tax.

Pro forma financial information

13.5.31 **G** **LR 13.3.3 R** sets out requirements for pro forma information in a *class 1 circular*.

Profit forecasts and profit estimates

13.5.32 **R** If a *listed company* includes a *profit forecast* or a *profit estimate* in a *class 1 circular* it must:

- (1) comply with the requirements for a *profit forecast* or *profit estimate* set out in Annex 1 of the *PR Regulation*; and
- (2) include a statement confirming that the *profit forecast* or *profit estimate* has been properly compiled on the basis of assumptions stated and that the basis of accounting is consistent with the accounting policies of the *listed company*.

13.5.33 **R** If, prior to the *class 1 transaction*, a *profit forecast* or *profit estimate* was published that:

- (1) relates to any of the *listed company*, a significant part of the *listed company group*, the *target* or a significant part of the *target*; and
- (2) relates to financial information including the period of the forecast which has yet to be published at the date of the *class 1 circular*;

the *listed company* must either:

- (3) include that *profit forecast* or *profit estimate* in the *class 1 circular* and comply with ■ LR 13.5.32 R; or
- (4) include the *profit forecast* or *profit estimate* in the *class 1 circular* together with an explanation of why the *profit forecast* or *profit estimate* is no longer valid and why reassessment of the *profit forecast* or *profit estimate* in the *class 1 circular* is not necessary for the *listed company* to comply fully with ■ LR 13.3.1R (3).

13.5.33A **G** For the purposes of ■ LR 13.5.33 R, the fact that the *profit forecast* or *profit estimate* was prepared for a reason other than the *class 1 circular* does not itself indicate invalidity.

13.5.33B **G** For the purposes of ■ LR 13.5.33R (1) a significant part of the *listed company* or *target* is any part that represents over 75% of the *listed company's group* or the *target* respectively. For these purposes the *FCA* will take into account factors such as the assets, profitability and market capitalisation of the business.

13.5.34 **G** A *listed company* should consider ■ LR 9.2.18 R regarding information that must be published after a *class 1 transaction*.

13.5.35 **G** [deleted]

13.5.36 **R** [deleted]