

## Chapter 10

# Equity shares (commercial companies): contents of circulars

## 10.6 Other circulars

### Authority to allot shares

10.6.1

R

A *circular* relating to a resolution proposing to grant the *directors'* authority to allot shares or other securities pursuant to section 551 of the Companies Act 2006 (Power of directors to allot shares etc: authorisation by company) must include:

- (1) a statement of the maximum amount of shares or other securities which the *directors* will have authority to allot and the percentage which that amount represents of the total ordinary share capital in issue (excluding *treasury shares*) as at the latest practicable date before publication of the *circular*;
- (2) a statement of the number of *treasury shares* held by the *company* as at the date of the *circular* and the percentage which that amount represents of the total ordinary share capital in issue (excluding *treasury shares*) as at the latest practicable date before publication of the *circular*;
- (3) a statement by the *directors* as to whether they have any present intention of exercising the authority and, if so, for what purpose; and
- (4) a statement as to when the authority will lapse.

### Disapplying pre-emption rights

10.6.2

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A *circular* relating to a resolution proposing to disapply pre-emption rights provided by ■ UKLR 9.2.1R must include:

- (1) a statement of the maximum amount of *equity securities* which the disapplication will cover; and
- (2) if there is a general disapplication for *equity securities* for cash made otherwise than to existing shareholders in proportion to their existing holdings, the percentage which the amount generally disappplied represents of the total *equity share* capital in issue as at the latest practicable date before publication of the *circular*.

### Reduction of capital

10.6.3

R

A *circular* relating to a resolution proposing to reduce the *company's* capital, other than a reduction of capital pursuant to section 626 of the Companies Act 2006 (Reduction of capital in connection with redenomination), must include a statement of the reasons for, and the effects of, the proposal.

**Capitalisation or bonus issue**

10.6.4

**R**

- (1) A *circular* relating to a resolution proposing a capitalisation or bonus issue must include:
  - (a) the reason for the issue;
  - (b) a statement of the last date on which transfers were or will be accepted for registration to participate in the issue;
  - (c) details of the proportional entitlement; and
  - (d) a description of the nature and amount of reserves which are to be capitalised.
- (2) Any timetable set out in the *circular* must have been approved by the *RIE* on which the *company's equity securities* are traded.

**Scrip dividend alternative**

10.6.5

**R**

- (1) A *circular* containing an offer to shareholders of the right to elect to receive *shares* instead of all or part of a cash dividend must include:
  - (a) a statement of the total number of *shares* that would be issued if all eligible shareholders were to elect to receive *shares* for their entire shareholdings, and the percentage which that number represents of the *equity shares* (excluding *treasury shares*) in issue at the date of the *circular*;
  - (b) in a prominent position, details of the equivalent cash dividend foregone to obtain each *share* or the basis of the calculation of the number of *shares* to be offered instead of cash;
  - (c) a statement of the total cash dividend payable and applicable tax credit on the basis that no elections for the scrip dividend alternative are received;
  - (d) a statement of the date for ascertaining the *share* price used as a basis for calculating the allocation of *shares*;
  - (e) details of the proportional entitlement;
  - (f) details of what is to happen to fractional entitlements;
  - (g) the record date; and
  - (h) a form of election relating to the scrip dividend alternative which:
    - (i) is worded so as to ensure that shareholders must elect positively in order to receive *shares* instead of cash; and
    - (ii) includes a statement that the right is non-transferable.
- (2) Any timetable set out in the *circular* must have been approved by the *RIE* on which the *company's equity securities* are traded.

**Scrip dividend mandate schemes/dividend reinvestment plans**

10.6.6

**R**

- (1) A *circular* relating to any proposal where shareholders are entitled to complete a mandate in order to receive *shares* instead of future cash dividends must include:
  - (a) the information in **UKLR 10.6.5R(1)(d)** and **(f)**;

- (b) the basis of the calculation of the number of *shares* to be offered instead of cash;
  - (c) a statement of the last date for lodging notice of participation or cancellation in order for that instruction to be valid for the next dividend;
  - (d) details of when adjustment to the number of *shares* subject to the mandate will take place;
  - (e) details of when cancellation of a mandate instruction will take place;
  - (f) a statement of whether or not the mandate instruction must be in respect of a shareholder's entire holding;
  - (g) the procedure for notifying shareholders of the details of each scrip dividend; and
  - (h) a statement of the circumstances, if known, under which the *directors* may decide not to offer a scrip alternative in respect of any dividend.
- (2) The timetable in the *circular* for each scrip alternative covered by a scrip dividend mandate plan must have been approved by the *RIE* on which the *company's equity shares* are traded.

#### Notices of meetings

- 10.6.7 **R** (1) When holders of *listed equity shares* are sent a notice of meeting which includes any business, other than ordinary business at an annual general meeting, an explanatory *circular* must accompany the notice. If the other business is to be considered at or on the same day as an annual general meeting, the explanation may be incorporated in the *directors' report*.
- (2) A *circular* or other document convening an annual general meeting where only ordinary business is proposed does not need to comply with **UKLR 10.3.1R(4)**, **(5)** or **(6)**.

- 10.6.8 **G** A *circular* or other document convening an annual general meeting where special business is proposed will need to comply with all of **UKLR 10.3.1R** (including paragraphs (4), (5) and (6) in respect of special business).

#### Amendments to constitution

- 10.6.9 **R** A *circular* to shareholders about proposed amendments to the *constitution* must include:
- (1) an explanation of the effect of the proposed amendments; and
  - (2) either the full terms of the proposed amendments, or a statement that the full terms will be available for inspection:
    - (a) at the place of the general meeting for at least 15 minutes before and during the meeting; and
    - (b) on the *national storage mechanism* from the date of sending the *circular*.

Employees' share scheme, etc

- 10.6.10 **R** A circular to shareholders about the approval of an *employees' share scheme* or *long-term incentive scheme* must:
- (1) include either the full text of the scheme or a description of its principal terms;
  - (2) include, if *directors* of the *listed company* are trustees of the scheme, or have a direct or indirect interest in the trustees, details of the trusteeship or interest;
  - (3) state that the provisions (if any) relating to:
    - (a) the *persons* to whom, or for whom, *securities*, cash or other benefits are provided under the scheme (the 'participants');
    - (b) limitations on the number or amount of the *securities*, cash or other benefits subject to the scheme;
    - (c) the maximum entitlement for any one participant; and
    - (d) the basis for determining a participant's entitlement to, and the terms of, *securities*, cash or other benefit to be provided and for the adjustment thereof (if any) if there is a capitalisation issue, *rights issue* or *open offer*, sub-division or consolidation of *shares* or reduction of capital or any other variation of capital, cannot be altered to the advantage of participants without the prior approval of shareholders in general meeting (except for minor amendments to benefit the administration of the scheme, to take account of a change in legislation or to obtain or maintain favourable tax, exchange control or regulatory treatment for participants in the scheme or for the *company* operating the scheme or for members of its group);
  - (4) state whether benefits under the scheme will be pensionable and, if so, the reasons for this; and
  - (5) if the scheme is not circulated to shareholders, include a statement that it will be available for inspection:
    - (a) at the place of the general meeting for at least 15 minutes before and during the meeting; and
    - (b) on the *national storage mechanism* from the date of sending the *circular*.
- 10.6.11 **R** The resolution contained in the notice of meeting accompanying the *circular* must refer either to:
- (1) the scheme itself (if circulated to shareholders); or
  - (2) the summary of its principal terms included in the *circular*.
- 10.6.12 **R** The resolution approving the adoption of an *employees' share scheme* or *long-term incentive scheme* may authorise the *directors* to establish further schemes based on any scheme which has previously been approved by shareholders but modified to take account of local tax, exchange control or securities laws in overseas territories, provided that any *shares* made

available under such further schemes are treated as counting against any limits on individual or overall participation in the main scheme.

#### Amendments to employees' share scheme, etc

10.6.13 **R** A circular to shareholders about proposed amendments to an *employees' share scheme* or a *long-term incentive scheme* must include:

- (1) an explanation of the effect of the proposed amendments; and
- (2) the full terms of the proposed amendments, or a statement that the full text of the scheme as amended will be available for inspection:
  - (a) at the place of the general meeting for at least 15 minutes before and during the meeting; and
  - (b) on the *national storage mechanism* from the date of sending the *circular*.

#### Discounted option arrangements

10.6.14 **R** If shareholders' approval is required by **UKLR 9.3.4R**, the *circular* to shareholders must include the following information:

- (1) details of the *persons* to whom the *options*, *warrants* or rights are to be granted; and
- (2) a summary of the principal terms of the *options*, *warrants* or rights.

#### Reminders of conversion rights

10.6.15 **R**

- (1) A *circular* to holders of *listed securities* convertible into *shares* reminding them of the times when conversion rights are exercisable must include:
  - (a) the date of the last day for lodging conversion forms and the expected date on which the certificates will be sent;
  - (b) a statement of the market values for the *securities* on the first dealing day in each of the 6 months before the date of the *circular* and on the latest practicable date before sending the *circular*;
  - (c) the basis of conversion in the form of a table setting out capital and income comparisons;
  - (d) a brief explanation of the tax implications of conversion for holders resident for tax purposes in the *United Kingdom*;
  - (e) if there is a trustee, or other representative, of the *securities* holders to be redeemed, a statement that the trustee, or other representative, has given its consent to the issue of the *circular* or stated that it has no objection to the resolution being put to a meeting of the *securities* holders;
  - (f) reference to future opportunities to convert and whether the terms of conversion will be the same as or will differ from those available at present, or, if there are no such opportunities, disclosure of that fact;

- (g) reference to letters of indemnity – for example, if certificates have been lost;
- (h) if power exists to allot *shares* issued on conversion to another *person*, reference to forms of nomination; and
- (i) a statement as to whether holders exercising their rights of conversion will retain the next interest payment due on the *securities*.

- (2) The *circular* must not contain specific advice as to whether or not to convert the *securities*.

### Election of independent directors

10.6.16

**R**

Where a *listed company* has a *controlling shareholder*, a *circular* to shareholders relating to the election or re-election of an *independent director* must include:

- (1) details of any existing or previous relationship, transaction or arrangement the proposed *independent director* has or had with the *listed company*, its *directors*, any *controlling shareholder* or any *associate* of a *controlling shareholder* or a confirmation that there have been no such relationships, transactions or arrangements; and
- (2) a description of:
  - (a) why the *listed company* considers the proposed *independent director* will be an effective *director*;
  - (b) how the *listed company* has determined that the proposed *director* is an *independent director*; and
  - (c) the process followed by the *listed company* for the selection of the proposed *independent director*.

10.6.17

**R**

In relation to a *listed company* which did not previously have a *controlling shareholder*, **UKLR 10.6.16R** does not apply to a *circular* sent to shareholders within a period of 3 months from the event that resulted in a *person* becoming a *controlling shareholder* of the *listed company*.