

## Chapter 9

Equity shares (commercial companies): further issuances, dealing in own securities and treasury shares

## 9.6 Purchase of own equity shares

### Requirement for a tender offer

9.6.1 **R** Unless **■** UKLR 9.6.2R applies, purchases by a *listed company* of shares in any class of its *equity shares* pursuant to a general authority by the shareholders must be by way of a *tender offer* to all shareholders of that class.

9.6.2 **R** **■** UKLR 9.6.1R does not apply to:

- (1) purchases by a *listed company* of less than 15% of any class of its *equity shares* (excluding *treasury shares*) pursuant to a general authority by the shareholders where the price to be paid is lower than or equal to the higher of:
  - (a) 5% above the average market value of the *company's equity shares* for the 5 *business days* prior to the day the purchase is made; and
  - (b) the technical standards stipulated by article 5(6) of the *Market Abuse Regulation*; or
- (2) purchases by a *listed company* of 15% or more of any class of its *equity shares* (excluding *treasury shares*) where the full terms of the *share buyback* have been specifically approved by shareholders.

9.6.3 **G** Where, pursuant to a general authority granted by shareholders, a series of purchases are made that in aggregate amount to 15% or more of the number of *equity shares* of the relevant class in issue immediately following the shareholders meeting at which the general authority to purchase was granted, a *tender offer* need only be made in respect of any purchase that takes the aggregate to or above that level. Purchases that have been specifically approved by shareholders are not to be taken into account in determining whether the 15% level has been reached.

### Notification prior to purchase

9.6.4 **R**

- (1) Any decision by the board to submit to shareholders a proposal for the *listed company* to be authorised to purchase its own *equity shares* must be notified to a *RIS* as soon as possible.
- (2) A notification required by paragraph (1) must set out whether the proposal relates to:
  - specific purchases and, if so, the names of the *persons* from whom the purchases are to be made; or

a general authorisation to make purchases.

- (3) The requirement set out in paragraph (1) does not apply to a decision by the board to submit to shareholders a proposal to renew an existing authority to purchase own *equity shares*.

9.6.5

**R**

A *listed company* must notify a *RIS* as soon as possible of the outcome of the shareholders' meeting to decide the proposal described in ■ UKLR 9.6.4R.

#### **Notification of purchases**

9.6.6

**R**

Any purchase of a *listed company's* own *equity shares* by or on behalf of the *company* or any other member of its *group* must be notified to a *RIS* as soon as possible, and in any event, by no later than 7.30am on the *business day* following the calendar day on which the purchase occurred. The notification must include:

- (1) the date of purchase;
- (2) the number of *equity shares* purchased;
- (3) the purchase price for each of the highest and lowest prices paid, where relevant;
- (4) the number of *equity shares* purchased for cancellation and the number of *equity shares* purchased to be held as *treasury shares*; and
- (5) where *equity shares* were purchased to be held as *treasury shares*, a statement of:
  - (a) the total number of *treasury shares* of each *class* held by the *company* following the purchase and non-cancellation of such *equity shares*; and
  - (b) the number of *equity shares* of each *class* that the *company* has in issue less the total number of *treasury shares* of each *class* held by the *company* following the purchase and non-cancellation of such *equity shares*.

#### **Consent of other classes and circular requirements**

9.6.7

**R**

Unless ■ UKLR 9.6.8R applies, a *company* with *listed securities* convertible into, or exchangeable for, or carrying a right to subscribe for *equity shares* of the *class* proposed to be purchased must (prior to entering into any agreement to purchase such *shares*):

- (1) convene a separate meeting of the holders of those *securities*; and
- (2) obtain their approval for the proposed purchase of *equity shares* by a special resolution.

9.6.8

**R**

■ UKLR 9.6.7R does not apply if the trust deed or terms of issue of the relevant *securities* authorise the *listed company* to purchase its own *equity shares*.

9.6.9

**R**

A *circular* convening a meeting required by ■ UKLR 9.6.7R must include (in addition to the information in ■ UKLR 10 (Equity shares (commercial companies): contents of circulars)):

- (1) a statement of the effect on the conversion expectations of holders in terms of attributable assets and earnings, on the basis that the *company* exercises the authority to purchase its *equity shares* in full at the maximum price allowed (where the price is to be determined by reference to a future market price, the calculation must be made on the basis of market prices prevailing immediately prior to the publication of the *circular* and that basis must be disclosed); and
- (2) any adjustments to the rights of the holders which the *company* may propose (in such a case, the information required under paragraph (1) must be restated on the revised basis).

**Other similar transactions**

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9.6.10

**G**

A *listed company* intending to enter into a transaction that would have an effect on the *company* similar to that of a purchase of own *equity shares* should consult with the *FCA* to discuss the application of ■ UKLR 9.6.