

LISTING RULES (ANNUAL FINANCIAL REPORT) INSTRUMENT 2013

Powers exercised

- A. The Financial Conduct Authority makes this instrument in the exercise of the following powers and related provisions in the Financial Services and Markets Act 2000 (the “Act”):
- (1) section 73A (Part 6 Rules);
 - (2) section 137A (General rule-making power);
 - (3) section 137T (General supplementary powers); and
 - (4) section 139A (Guidance).
- B. The rule-making powers referred to above are specified for the purpose of section 138G(2) (Rule-making instruments) of the Act.

Commencement

- C. This instrument comes into force on 13 December 2013.

Amendments to the FCA’s Handbook

- D. The Listing Rules sourcebook (LR) is amended in accordance with the Annex to this instrument.

Notes

- E. In the Annex to this instrument, the “notes” (indicated by “**Note:**”) are included for the convenience of readers but do not form part of the legislative text.

Citation

- F. This instrument may be cited as the Listing Rules (Annual Financial Report) Instrument 2013.

By order of the Board of the Financial Conduct Authority
12 December 2013

Annex

Amendments to the Listing Rules sourcebook (LR)

In this Annex, underlining indicates new text and striking through indicates deleted text.

9.8 Annual financial report

[Note: LR 9.8 does not apply to a *listed company* with a financial year ending before 30 September 2013, or to a *listed company* with a financial year ending on or after 30 September 2013 whose annual financial report has been made public on or before 13 December 2013. As set out in LR TR 11, a *listed company* with a financial year ending before 30 September 2013, or a *listed company* with a financial year ending on or after 30 September 2013 whose annual financial report has been made public on or before 13 December 2013, must instead comply with the requirements set out in LR App 2.]

9.8.1 R [deleted]

...

Additional information

9.8.6 R In the case of a *listed company* incorporated in the *United Kingdom*, the following additional items must be included in its annual financial report :

...

(7) a report to the shareholders by the Board which contains ~~all~~ the matters information set out in LR 9.8.8R.

...

9.8.7 R An *overseas company* with a *premium listing* must include in its annual report and accounts the information in LR 9.8.6R(5), LR 9.8.6R(6) and LR 9.8.8R~~(9)~~.

...

Report to shareholders

9.8.8 R The report to the shareholders by the Board required by LR 9.8.6R(7) must contain ~~the following:~~ details of the unexpired term of any *director's* service contract of a *director* proposed for election or re-election at the forthcoming annual general meeting, and, if any *director* proposed for election or re-election does not have a *directors'* service contract, a statement to that effect.

(1) ~~a statement of the *listed company's* policy on executive *directors'* remuneration;~~

- (2) information presented in tabular form, unless inappropriate, together with explanatory notes as necessary on:
- (a) the amount of each element in the remuneration package for the period under review of each *director*, by name, including but not restricted to, basic salary and fees, the estimated money value of benefits in kind, annual bonuses, deferred bonuses, compensation for loss of office and payments for breach of contract or other termination payments;
 - (b) the total remuneration for each *director* for the period under review and for the corresponding prior period;
 - (c) any significant payments made to former *directors* during the period under review; and
 - (d) any share options, including Save as you earn options, for each *director*, by name, in accordance with the requirements of the Directors' Remuneration Report Regulations;
- (3) details of any *long-term incentive schemes*, other than share options as required by paragraph (2)(d), including the interests of each *director*, by name, in the *long-term incentive schemes* at the start of the period under review;
- (4) details of any entitlements or awards granted and commitments made to each *director* under any *long-term incentive schemes* during the period, showing which crystallize either in the same year or in subsequent years;
- (5) details of the monetary value and number of *shares*, cash payments or other benefits received by each *director* under any *long-term incentive schemes* during the period;
- (6) details of the interests of each *director* in the *long-term incentive schemes* at the end of the period;
- (7) an explanation and justification of any element of a *director's* remuneration, other than basic salary, which is pensionable;
- (8) details of any *directors' service contract* with a notice period in excess of one year or with provisions for pre-determined compensation on termination which exceeds one years salary and benefits in kind, giving the reasons for such notice period;
- (9) details of the unexpired term of any *directors' service contract* of a *director* proposed for election or re-election at the forthcoming annual general meeting, and, if any *director* proposed for election or re-election does not have a *directors' service contract*, a statement to that effect;

- (10) ~~a statement of the *listed company's* policy on the granting of options or awards under its *employees' share schemes* and other *long term incentive schemes*, explaining and justifying any departure from that policy in the period under review and any change in the policy from the preceding year;~~
- (11) ~~for *money purchase schemes* details of the contribution or allowance payable or made by the *listed company* in respect of each *director* during the period under review; and~~
- (12) ~~for *defined benefit schemes*:~~
- (a) ~~details of the amount of the increase during the period under review (excluding inflation) and of the accumulated total amount at the end of the period in respect of the accrued benefit to which each *director* would be entitled on leaving service or is entitled having left service during the period under review;~~
- (b) ~~either:~~
- (i) ~~the transfer value (less *director's* contributions) of the relevant increase in accrued benefit (to be calculated in accordance with regulations 7 to 7E of the Occupational Pension Schemes (Transfer Values) Regulations 1996 but making no deduction for any under-funding) as at the end of the period; or~~
- (ii) ~~so much of the following information as is necessary to make a reasonable assessment of the transfer value in respect of each *director*:~~
- (A) ~~age;~~
- (B) ~~normal retirement age;~~
- (C) ~~the amount of any contributions paid or payable by the director under the terms of the scheme during the period under review;~~
- (D) ~~details of spouses and dependants benefits;~~
- (E) ~~early retirement rights and options;~~
- (F) ~~expectations of pension increases after retirement (whether guaranteed or discretionary); and~~
- (G) ~~discretionary benefits for which allowance is made in transfer values on leaving and any other relevant information which will significantly affect the value of~~

the benefits; and

(e) ~~no disclosure of voluntary contributions and benefits.~~

Information required by law

- 9.8.9 G The requirements of *LR 9.8.6R(6)* ~~and *LR 9.8.8R*~~ relating to corporate governance are additional to the information required by law to be included in the *listed company's* annual report and accounts.

Auditors report

...

- 9.8.11 R ~~A listed company must ensure that the auditors review the following disclosures: [deleted]~~
- (1) ~~*LR 9.8.8R(2)* (amount of each element in the remuneration package and information on share options);~~
 - (2) ~~*LR 9.8.8R(3)*, *LR 9.8.8R(4)* and (5) (details of long term incentive schemes for directors);~~
 - (3) ~~*LR 9.8.8R(11)* (money purchase schemes); and~~
 - (4) ~~*LR 9.8.8R(12)* (defined benefit schemes).~~
- 9.8.12 R ~~If, in the opinion of the auditors the listed company has not complied with any of the requirements set out in *LR 9.8.11R* the listed company must ensure that the auditors report includes, to the extent possible, a statement giving details of the non-compliance. [deleted]~~

~~Summary financial statements~~ Strategic report with supplementary information

- 9.8.13 R ~~Any summary financial statement~~ strategic report with supplementary information issued provided to shareholders by a *listed company*, as permitted under section 426 of the Companies Act 2006, must disclose:
- (1) earnings per share; and
 - (2) the information required for ~~summary financial statements~~ a strategic report set out in or under the Companies Act 2006 and the supplementary material required under section 426A of the Companies Act 2006.

...

Appendix 2 ~~Fees and Financial Penalty Income~~ Annual Financial Report for certain listed companies

- App 2.1** ~~The provisions outlined in LR App 2.1 in relation to fees are set out in FEES 3 and 4~~

App 2.1.1 As set out in LR TR 11, a *listed company* with a financial year ending before 30 September 2013, or a *listed company* with a financial year ending on or after 30 September 2013 whose annual financial report has been made public on or before 13 December 2013, must comply with the requirements set out in this appendix in relation to their annual financial report. To assist *listed companies*, this appendix adopts the text of LR 9.8 before this was amended by the Listing Rules (Annual Financial Report) Instrument 2013 in order to cover *listed companies* with a financial year ending before 30 September 2013, and *listed companies* with a financial year ending on or after 30 September 2013 whose annual financial report has been made public on or before 13 December 2013.

App 2.1.2

9.8 **Annual financial report**

9.8.1 R [not used]

9.8.2 R [not used]

9.8.3 R [not used]

Information to be included in annual report and accounts

9.8.4 R In addition to the requirements set out in DTR 4.1 a *listed company* must include in its annual financial report, where applicable, the following:

- (1) a statement of the amount of interest capitalised by the *group* during the period under review with an indication of the amount and treatment of any related tax relief;
- (2) any information required by LR 9.2.18R (Publication of unaudited financial information);
- (3) details of any small related party transaction as required by LR 11.1.10R(2)(c);
- (4) details of any long-term incentive schemes as required by LR 9.4.3R;
- (5) details of any arrangements under which a *director* of the *company* has waived or agreed to waive any emoluments from the *company* or any *subsidiary undertaking*;
- (6) where a *director* has agreed to waive future emoluments, details of such waiver together with those relating to emoluments which were waived during the period under review;
- (7) in the case of any allotment for cash of *equity securities* made during the period under review otherwise than to the holders of the *company's equity shares* in proportion to their holdings of such

equity shares and which has not been specifically authorised by the company's shareholders:

- (a) the classes of shares allotted and for each class of shares, the number allotted, their aggregate nominal value and the consideration received by the company for the allotment;
 - (b) the names of the allottees, if less than six in number, and in the case of six or more allottees a brief generic description of each new class of equity holder (e.g. holder of loan stock);
 - (c) the market price of the allotted securities on the date on which the terms of the issue were fixed; and
 - (d) the date on which the terms of the issue were fixed;
- (8) the information required by paragraph (7) must be given for any unlisted major subsidiary undertaking of the company;
- (9) where a listed company has listed shares in issue and is a subsidiary undertaking of another company, details of the participation by the parent undertaking in any placing made during the period under review;
- (10) details of any contract of significance subsisting during the period under review:
- (a) to which the listed company, or one of its subsidiary undertakings, is a party and in which a director of the listed company is or was materially interested; and
 - (b) between the listed company, or one of its subsidiary undertakings, and a controlling shareholder;
- (11) details of any contract for the provision of services to the listed company or any of its subsidiary undertakings by a controlling shareholder, subsisting during the period under review, unless:
- (a) it is a contract for the provision of services which it is the principal business of the shareholder to provide; and
 - (b) it is not a contract of significance;
- (12) details of any arrangement under which a shareholder has waived or agreed to waive any dividends; and
- (13) where a shareholder has agreed to waive future dividends, details of such waiver together with those relating to dividends which are payable during the period under review.

9.8.5 G A listed company need not include with the annual report and accounts details of waivers of dividends of less than 1% of the total value of any

dividend provided that some payment has been made on each *share* of the relevant *class* during the relevant calendar year.

Additional information

9.8.6 R In the case of a *listed company* incorporated in the *United Kingdom*, the following additional items must be included in its annual financial report:

(1) a statement setting out all the interests (in respect of which transactions are notifiable to the company under *DTR 3.1.2R*) of each *person* who is a *director* of the *listed company* as at the end of the period under review including:

(a) all changes in the interests of each *director* that have occurred between the end of the period under review and a date not more than one month prior to the date of the notice of the annual general meeting; or

(b) if there have been no changes in the period described in paragraph (a), a statement that there have been no changes in the interests of each *director*;

Interests of each *director* include the interests of *connected persons* of which the *listed company* is, or ought upon reasonable enquiry to become, aware.

(2) a statement showing the interests disclosed to the *listed company* in accordance with *DTR 5* as at the end of the period under review and:

(a) all interests disclosed to the *listed company* in accordance with *DTR 5* that have occurred between the end of the period under review and a date not more than one month prior to the date of the notice of the annual general meeting; or

(b) if no interests have been disclosed to the *listed company* in accordance with *DTR 5* in the period described in (a), a statement that no changes have been disclosed to the *listed company*;

(3) a statement made by the *directors* that the business is a going concern, together with supporting assumptions or qualifications as necessary, that has been prepared in accordance with *Going Concern and Liquidity Risk: Guidance for Directors of UK Companies 2009*, published by the Financial Reporting Council in October 2009;

(4) a statement setting out:

(a) details of any shareholders' authority for the purchase, by the *listed company* of its own *shares* that is still valid at the end

of the period under review;

- (b) in the case of purchases made otherwise than through the market or by tender to all shareholders, the names of sellers of such *shares* purchased, or proposed to be purchased, by the *listed company* during the period under review;
 - (c) in the case of any purchases made otherwise than through the market or by tender or partial offer to all shareholders, or options or contracts to make such purchases, entered into since the end of the period covered by the report, information equivalent to that required under Part 2 of Schedule 7 to the Large & Medium Sized Companies and Groups (Accounts and Reports) Regulations 2008 (SI 2008/410) (Disclosure required by company acquiring its own shares etc) ; and
 - (d) in the case of sales of *treasury shares* for cash made otherwise than through the market, or in connection with an *employees' share scheme*, or otherwise than pursuant to an opportunity which (so far as was practicable) was made available to all holders of the *listed company's securities* (or to all holders of a relevant class of its *securities*) on the same terms, particulars of the names of purchasers of such *shares* sold, or proposed to be sold, by the *company* during the period under review;
- (5) a statement of how the *listed company* has applied the Main Principles set out in the *UK Corporate Governance Code*, in a manner that would enable shareholders to evaluate how the principles have been applied;
- (6) a statement as to whether the *listed company* has:
- (a) complied throughout the accounting period with all relevant provisions set out in the *UK Corporate Governance Code*; or
 - (b) not complied throughout the accounting period with all relevant provisions set out in the *UK Corporate Governance Code* and if so, setting out:
 - (i) those provisions, if any it has not complied with;
 - (ii) in the case of provisions whose requirements are of a continuing nature, the period within which, if any, it did not comply with some or all of those provisions; and
 - (iii) the *company's* reasons for non-compliance; and
- (7) a report to the shareholders by the Board which contains all the matters set out in LR 9.8.8R.

- 9.8.6A G (1) The effect of LR 9.8.6R(1) is that a *listed company* is required to set out a 'snapshot' of the total interests of a *director* and his or her *connected persons*, as at the end of the period under review (including certain information to update it as at a date not more than a month before the date of the notice of the annual general meeting). The interests that need to be set out are limited to those in respect of which transactions fall to be notified under the notification requirement for PDMRs in DTR 3.1.2R. *Persons* who are *directors* during, but not at the end of, the period under review need not be included.
- (2) A *listed company* unable to compile the statement in LR 9.8.6R(1) from information already available to it may need to seek the relevant information, or confirmation, from the *director* himself, including that in relation to *connected persons*, but would not be expected to obtain information directly from *connected persons*.
- 9.8.7 R An *overseas company* with a *premium listing* must include in its annual report and accounts the information in LR 9.8.6R(5), LR 9.8.6R(6) and LR 9.8.8R(9).
- 9.8.7A R (1) An *overseas company* with a *premium listing* that is not required to comply with requirements imposed by another *EEA State* that correspond to DTR 7.2 (Corporate governance statements) must comply with DTR 7.2 as if it were an *issuer* to which that section applies.
- (2) An *overseas company* with a *premium listing* which complies with LR 9.8.7R will be taken to satisfy the requirements of DTR 7.2.2R and DTR 7.2.3R, but (unless it is required to comply with requirements imposed by another *EEA State* that correspond to DTR 7.2) must comply with all of the other requirements of DTR 7.2 as if it were an *issuer* to which that section applies.

Report to shareholders

- 9.8.8 R The report to the shareholders by the Board required by LR 9.8.6R(7) must contain the following:
- (1) a statement of the *listed company's* policy on executive *directors'* remuneration;
- (2) information presented in tabular form, unless inappropriate, together with explanatory notes as necessary on:
- (a) the amount of each element in the remuneration package for the period under review of each *director*, by name, including but not restricted to, basic salary and fees, the estimated money value of benefits in kind, annual bonuses, deferred bonuses, compensation for loss of office and payments for

- breach of contract or other termination payments;
- (b) the total remuneration for each *director* for the period under review and for the corresponding prior period;
 - (c) any significant payments made to former *directors* during the period under review; and
 - (d) any share options, including Save-as-you-earn options, for each *director*, by name, in accordance with the requirements of the Directors' Remuneration Report Regulations;
- (3) details of any *long-term incentive schemes*, other than share options as required by paragraph (2)(d), including the interests of each *director*, by name, in the *long-term incentive schemes* at the start of the period under review;
 - (4) details of any entitlements or awards granted and commitments made to each *director* under any *long-term incentive schemes* during the period, showing which crystallize either in the same year or in subsequent years;
 - (5) details of the monetary value and number of *shares*, cash payments or other benefits received by each *director* under any *long-term incentive schemes* during the period;
 - (6) details of the interests of each *director* in the *long-term incentive schemes* at the end of the period;
 - (7) an explanation and justification of any element of a *director's* remuneration, other than basic salary, which is pensionable;
 - (8) details of any *director's* service contract with a notice period in excess of one year or with provisions for pre-determined compensation on termination which exceeds one year's salary and benefits in kind, giving the reasons for such notice period;
 - (9) details of the unexpired term of any *directors'* service contract of a *director* proposed for election or re-election at the forthcoming annual general meeting, and, if any *director* proposed for election or re-election does not have a *directors'* service contract, a statement to that effect;
 - (10) a statement of the *listed company's* policy on the granting of options or awards under its *employees' share schemes* and other *long-term incentive schemes*, explaining and justifying any departure from that policy in the period under review and any change in the policy from the preceding year;
 - (11) for *money purchase schemes* details of the contribution or allowance payable or made by the *listed company* in respect of

each director during the period under review; and

(12) for defined benefit schemes:

(a) details of the amount of the increase during the period under review (excluding inflation) and of the accumulated total amount at the end of the period in respect of the accrued benefit to which each director would be entitled on leaving service or is entitled having left service during the period under review;

(b) either:

(i) the transfer value (less director's contributions) of the relevant increase in accrued benefit (to be calculated in accordance with regulations 7 to 7E of the Occupational Pension Schemes (Transfer Values) Regulations 1996 but making no deduction for any under-funding) as at the end of the period; or

(ii) so much of the following information as is necessary to make a reasonable assessment of the transfer value in respect of each director:

(A) age;

(B) normal retirement age;

(C) the amount of any contributions paid or payable by the director under the terms of the scheme during the period under review;

(D) details of spouses and dependants benefits;

(E) early retirement rights and options;

(F) expectations of pension increases after retirement (whether guaranteed or discretionary); and

(G) discretionary benefits for which allowance is made in transfer values on leaving and any other relevant information which will significantly affect the value of the benefits; and

(c) no disclosure of voluntary contributions and benefits.

Information required by law

9.8.9 G The requirements of LR 9.8.6R(6) and LR 9.8.8R relating to corporate governance are additional to the information required by law to be included in the listed company's annual report and accounts.

Auditors' report

9.8.10 R A listed company must ensure that the auditors review each of the

following before the annual report is published:

- (1) LR 9.8.6R(3) (statement by the directors that the business is a going concern); and
- (2) the parts of the statement required by LR 9.8.6R(6) (corporate governance) that relate to the following provisions of the UK Corporate Governance Code:
 - (a) C.1.1;
 - (b) C.2.1; and
 - (c) C.3.1 to C.3.7.

9.8.11 R A listed company must ensure that the auditors review the following disclosures:

- (1) LR 9.8.8R(2) (amount of each element in the remuneration package and information on share options);
- (2) LR 9.8.8R(3), LR 9.8.8R(4) and (5) (details of long term incentive schemes for directors);
- (3) LR 9.8.8R(11) (money purchase schemes); and
- (4) LR 9.8.8R(12) (defined benefit schemes).

9.8.12 R If, in the opinion of the auditors the listed company has not complied with any of the requirements set out in LR 9.8.11R the listed company must ensure that the auditors' report includes, to the extent possible, a statement giving details of the non-compliance.

Summary financial statements

9.8.13 R Any summary financial statement issued by a listed company as permitted under the Companies Act 2006, must disclose:

- (1) earnings per share; and
- (2) the information required for summary financial statements set out in or under the Companies Act 2006.

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TR 11 Transitional Provisions in relation to Annual Financial Report

<u>(1)</u>	<u>(2) Material to which the transitional provision applies</u>	<u>(3)</u>	<u>(4) Transitional provision</u>	<u>(5) Transitional provision: dates in force</u>	<u>(6) Handbook provision: coming into force</u>
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1.	<u>LR 9.8</u>	<u>R</u>	<p>(1) <u>LR 9.8 does not apply to a listed company with a financial year ending before 30 September 2013, or to a listed company with a financial year ending on or after 30 September 2013 whose annual financial report has been made public on or before 13 December 2013.</u></p> <p>(2) <u>A listed company with a financial year ending before 30 September 2013, or a listed company with a financial year ending on or after 30 September 2013 whose annual financial report has been made public on or before 13 December 2013, must instead comply with the requirements set out in LR App 2.</u></p>	<u>From 13 December 2013</u>	<u>13 December 2013</u>
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