

**LISTING AND DISCLOSURE SOURCEBOOKS (SHAREHOLDER RIGHTS  
DIRECTIVE) INSTRUMENT 2019**

**Powers exercised**

- A. The Financial Conduct Authority (“the FCA”) 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 89O (Corporate governance rules);
  - (3) section 96 (Obligations of issuers of listed securities);
  - (4) section 137A (The FCA’s general rules);
  - (5) section 137T (General supplementary powers); and
  - (6) section 139A (Power of the FCA to give guidance).
- B. The rule-making provisions listed above are specified for the purposes of section 138G(2) (Rule-making instruments) of the Act.

**Commencement**

- C. This instrument comes into force on 10 June 2019.

**Amendments to the Handbook**

- D. The modules of the FCA’s Handbook of rules and guidance listed in column (1) below are amended in accordance with the Annexes in this instrument listed in column (2) below.

(1)	(2)
Glossary of definitions	Annex A
Listing Rules sourcebook (LR)	Annex B
Disclosure Guidance and Transparency Rules sourcebook (DTR)	Annex C

**Notes**

- E. In Annex C 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 and Disclosure Sourcebooks (Shareholder Rights Directive) Instrument 2019.

By order of the Board  
30 May 2019

## Annex A

## Amendments to the Glossary of definitions

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

Insert the following new definitions in the appropriate alphabetical position. The text is not underlined.

*material related party transaction* (in *DTR*) a *related party transaction* where any *percentage ratio* is 5% or more.

*related party tests* (in *DTR*) the tests set out in *DTR 7 Annex 1*, which are used to determine whether a transaction or arrangement is a *material related party transaction*.

*Shareholder Rights Directive* Directive 2007/36/EC of the European Parliament and of the Council of 11 July 2007 on the exercise of certain rights of shareholders in listed companies.

Amend the following definitions as shown.

*associate* (1) (in *LR*,) ~~(in relation to a *director, substantial shareholder, or person exercising significant influence*, who is an individual) and~~ (in *DTR*, in relation to a *related party* who is an individual):

...

(2) (in *LR*,) ~~(in relation to a *substantial shareholder, or person exercising significant influence* which is a *company*) and~~ (in *DTR*, in relation to a *related party* which is a *company*):

...

...

*debt security* (1) (in *LR* and *DTR 7*) *debentures, alternative debentures, debenture stock, loan stock, bonds, certificates of deposit or any other instrument creating or acknowledging indebtedness.*

...

- percentage ratio* (1) (in *LR*) (in relation to a transaction) the figure, expressed as a percentage, that results from applying a calculation under a *class test* to the transaction;
- (2) (in *DTR*) (in relation to a transaction or arrangement) the figure, expressed as a percentage, that results from applying a calculation under a *related party test* to the transaction or arrangement.
- related party* ...
- (2) ...
- (c) that *person's* parent, brother, sister, child, grandparent or grandchild;
- (3) (in *DTR*) as defined in *DTR* 7.3.2R.
- related party transaction* (1) (in *LR*) as defined in *LR* 11.1.5R;
- (2) (in *DTR*) as defined in *DTR* 7.3.3R.

## Annex B

### Amendments to the Listing Rules sourcebook (LR)

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

#### 9 Continuing obligations

...

#### 9.2 Requirements with continuing application

...

Compliance with the disclosure requirements, ~~and~~ transparency rules and corporate governance rules

...

9.2.6C R A listed company that is not already required to comply with:

- (1) DTR 7.3 (Related party transactions); or
- (2) requirements imposed by another EEA State that correspond to DTR 7.3;

must comply with DTR 7.3 as if it were an issuer to which DTR 7.3 applies, subject to the modifications set out in LR 9.2.6DR.

9.2.6D R For the purposes of LR 9.2.6CR, DTR 7.3 is modified as follows:

- (1) DTR 7.3.2R must be read as if the words “has the meaning in IFRS” are replaced by:

“has the meaning:

- (a) in IFRS; or
- (b) where the listed company prepares annual consolidated financial statements in accordance with accounting standards which have been determined to be equivalent to IFRS by the European Commission in accordance with Commission Regulation (EC) No. 1569/2007 of 21 December 2007 establishing a mechanism for the determination of equivalence of accounting standards applied by third country issuers of securities pursuant to Directives 2003/71/EC and 2004/109/EC of the European Parliament and of the Council,

- (i) in IFRS, or
- (ii) in the equivalent accounting standards in accordance with which its annual consolidated financial statements are prepared;

at the choice of the listed company.”

(2) DTR 7.3.8R(2) and (3) do not apply;

(3) DTR 7.3.9R must be read as follows:

(a) as if the words “after obtaining board approval” are replaced by “after publishing an announcement in accordance with DTR 7.3.8R(1)”; and

(b) the reference to DTR 7.3.8R must be read as a reference to DTR 7.3.8R as modified by LR 9.2.6DR(2); and

(4) in DTR 7.3.13R the references to DTR 7.3.8R must be read as references to DTR 7.3.8R as modified by LR 9.2.6DR(2).

...

## 14 Standard listing (shares)

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### 14.3 Continuing obligations

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Compliance with the transparency rules and corporate governance rules

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14.3.25 R A company with a standard listing of equity shares (other than an open-ended investment company) that is not already required to comply with:

(1) DTR 7.3 (Related party transactions); or

(2) requirements imposed by another EEA State that correspond to DTR 7.3;

must comply with DTR 7.3 as if it were an issuer to which DTR 7.3 applies, subject to the modifications set out in LR 14.3.26R.

14.3.26 R For the purposes of LR 14.3.25R, DTR 7.3 is modified as follows:

(1) DTR 7.3.2R must be read as if the words “has the meaning in IFRS” are replaced by:

“has the meaning:

- (a) in IFRS; or
- (b) where the listed company prepares annual consolidated financial statements in accordance with accounting standards which have been determined to be equivalent to IFRS by the European Commission in accordance with Commission Regulation (EC) No. 1569/2007 of 21 December 2007 establishing a mechanism for the determination of equivalence of accounting standards applied by third country issuers of securities pursuant to Directives 2003/71/EC and 2004/109/EC of the European Parliament and of the Council,
  - (i) in IFRS, or
  - (ii) in the equivalent accounting standards in accordance with which its annual consolidated financial statements are prepared;

at the choice of the listed company.”

- (2) DTR 7.3.8R(2) and (3) do not apply;
- (3) DTR 7.3.9R must be read as follows:
  - (a) as if the words “after obtaining board approval” are replaced by “after publishing an announcement in accordance with DTR 7.3.8R(1)”; and
  - (b) the reference to DTR 7.3.8R must be read as a reference to DTR 7.3.8R as modified by LR 14.3.26R(2); and
- (4) in DTR 7.3.13R the references to DTR 7.3.8R must be read as references to DTR 7.3.8R as modified by LR 14.3.26R(2).

...

## 16 Open-ended investment companies: Premium listing

...

### 16.4 Requirements with continuing application

16.4.1 R An open-ended investment company must comply with:

- (1) LR 9 (Continuing obligations) except LR 9.2.2AR to LR 9.2.2GR, LR 9.2.6BR, LR 9.2.6CR, LR 9.2.6DR, LR 9.2.15R, LR 9.2.20R, LR 9.2.21R, LR 9.2.23R, LR 9.2.24R, LR 9.2.25R, LR 9.3.11R and LR 9.8.4R(14);

...

...

**18 Certificates representing certain securities: Standard Listing**

...

**18.4 Continuing obligations**

...

18.4.2 R A *UK issuer* of *equity shares* which the certificates represent must comply with the continuing obligations set out in *LR 9 (Continuing obligations)* (other than in *LR 9.2.6CR* and *LR 9.2.6DR*) in addition to the requirements of this section.

18.4.3 R An *overseas company* that is the *issuer* of the *equity shares* which the certificates represent must comply with:

...

(2) the continuing obligations set out in *LR 14.3 (Continuing obligations)* (other than in *LR 14.3.2R*, ~~and~~ *LR 14.3.15R*, *LR 14.3.25R* and *LR 14.3.26R*), *LR 18.2.8R* and *LR 18.4.3AR*; and

...

...

**21 Sovereign Controlled Commercial Companies: Premium listing**

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**21.8 Continuing obligations: Certificates representing shares**

Compliance with *LR 9 (Continuing obligations)*

21.8.1 R A *listed company* must comply with *LR 9 (Continuing obligations)* except:

...

(2) *LR 9.2.5G* to ~~*LR 9.2.6BR*~~ *LR 9.2.6DR*;

...

...

Additional requirements: compliance with the disclosure requirements, ~~and~~ transparency rules and corporate governance rules

...

- 21.8.17A R A listed company that is not already required to comply with:
- (1) DTR 7.3 (Related party transactions); or
  - (2) requirements imposed by another EEA State that correspond to DTR 7.3;
- must comply with DTR 7.3 as if it were an issuer to which DTR 7.3 applies, subject to the modifications set out in LR 21.8.17BR.
- 21.8.17B R For the purposes of LR 21.8.17AR, DTR 7.3 is modified as follows:
- (1) DTR 7.3.2R must be read as if the words “has the meaning in IFRS” are replaced by:  
“has the meaning:
    - (a) in IFRS; or
    - (b) where the listed company prepares annual consolidated financial statements in accordance with accounting standards which have been determined to be equivalent to IFRS by the European Commission in accordance with Commission Regulation (EC) No. 1569/2007 of 21 December 2007 establishing a mechanism for the determination of equivalence of accounting standards applied by third country issuers of securities pursuant to Directives 2003/71/EC and 2004/109/EC of the European Parliament and of the Council,
      - (i) in IFRS, or
      - (ii) in the equivalent accounting standards in accordance with which its annual consolidated financial statements are prepared;at the choice of the listed company.”
  - (2) DTR 7.3.8R(2) and (3) do not apply;
  - (3) DTR 7.3.9R must be read as follows:
    - (a) as if the words “after obtaining board approval” are replaced by “after publishing an announcement in accordance with DTR 7.3.8R(1)”; and
    - (b) the reference to DTR 7.3.8R must be read as a reference to DTR 7.3.8R as modified by LR 21.8.17BR(2); and

- (4) in DTR 7.3.13R the references to DTR 7.3.8R must be read as references to DTR 7.3.8R as modified by LR 21.8.17BR(2).

...

Insert the following new TR, TR 14, after TR 13 (Transitional Provisions for the UK Corporate Governance Code). The text is not underlined.

**TR 14**                      **Transitional Provisions in relation to DTR 7.3 (Related party transactions)**

(1)	(2) Material to which the transitional provision applies	(3)	(4) Transitional provision	(5) Transitional provision: dates in force	(6) Handbook provision: coming into force
1.	LR 9.2.6CR LR 9.2.6DR LR 15.4.1R LR 21.4.1R	R	A commercial company, <i>closed-ended investment fund</i> or <i>sovereign controlled commercial company</i> with <i>equity shares</i> that have a <i>premium listing</i> on 10 June 2019 is only required to comply with LR 9.2.6CR and LR 9.2.6DR from the start of the financial year beginning on or after 10 June 2019.	From 10 June 2019 to 31 December 2020	10 June 2019

2.	LR 14.3.25R LR 14.3.26R	R	A <i>company</i> that has a <i>standard listing of equity shares</i> (other than an <i>open-ended investment company</i> ) on 10 June 2019 is only required to comply with LR 14.3.25R and LR 14.3.26R from the start of the financial year beginning on or after 10 June 2019.	From 10 June 2019 to 31 December 2020	10 June 2019
3.	LR 21.8.17AR LR 21.8.17BR	R	A <i>sovereign controlled commercial company</i> with <i>certificates representing shares</i> that have a <i>premium listing</i> on 10 June 2019 is only required to comply with LR 21.8.17AR and LR 21.8.17BR from the start of the financial year beginning on or after 10 June 2019.	From 10 June 2019 to 31 December 2020	10 June 2019

## Annex C

## Amendments to the Disclosure Guidance and Transparency Rules sourcebook (DTR)

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

**1B Introduction (Corporate governance)**

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**1B.1 Application and purpose (Corporate governance)**

...

Purpose: Related party transactions

1B.1.9 G The purpose of the requirements in DTR 7.3 is to implement parts of the Shareholder Rights Directive which require companies to have safeguards that apply to material transactions with related parties.

Application: Related party transactions

1B.1.10 R DTR 7.3 applies to an issuer:

(1) any shares of which:

(a) carry rights to vote at general meetings; and

(b) are admitted to trading; and

(2) which is a company within the meaning of section 1(1) of the Companies Act 2006.

[Note: article 1(1) of the Shareholder Rights Directive]

1B.1.11 G LR 9.2.6CR, LR 14.3.25R, LR 15.4.1R, LR 21.4.1R and LR 21.8.17AR extend the application of DTR 7.3 (Related party transactions) for certain listed companies which have equity shares or certificates representing shares admitted to the official list maintained by the FCA in accordance with section 74 (The official list) of the Act.

...

Insert the following new section, DTR 7.3, after DTR 7.2 (Corporate Governance Statements). The text is not underlined.

## 7 Corporate governance

...

### 7.3 Related party transactions

#### Transaction

7.3.1 R A reference in this section:

- (1) to a transaction or arrangement by an *issuer* includes a transaction or arrangement by its *subsidiary undertaking*; and
- (2) to a transaction is, unless the contrary intention appears, a reference to the entering into of the agreement for the transaction.

[**Note:** article 9c(7) of the *Shareholder Rights Directive*]

#### Definition of related party

7.3.2 R In *DTR*, a “*related party*” has the meaning in *IFRS*.

[**Note:** article 2(h) of the *Shareholder Rights Directive*]

#### Definition of related party transaction

7.3.3 R In *DTR*, a “*related party transaction*” means:

- (1) a transaction (other than a transaction in the ordinary course of business and concluded on normal market terms) between an *issuer* and a *related party*; or
- (2) an arrangement (other than an arrangement in the ordinary course of business and concluded on normal market terms) pursuant to which an *issuer* and a *related party* each invests in, or provides finance to, another undertaking or asset; or
- (3) any other similar transaction or arrangement (other than a transaction or arrangement in the ordinary course of business and concluded on normal market terms) between an *issuer* and any other *person* the purpose and effect of which is to benefit a *related party*.

[**Note:** article 9c(5) of the *Shareholder Rights Directive*]

7.3.4 R An *issuer* must establish and maintain adequate procedures, systems and controls to enable it to assess whether a transaction or arrangement with a *related party* is in the ordinary course of business and has been concluded on normal market terms. An *issuer* must ensure that the *related party* and any

person who is an *associate*, *director* or *employee* of the *related party* does not take part in any such assessment.

[**Note:** article 9c(5) of the *Shareholder Rights Directive*]

Transactions to which this section does not apply

- 7.3.5 R *DTR 7.3.8R* does not apply to any *related party transaction* which is:
- (1) a transaction or arrangement between the *issuer* and its *subsidiary undertaking* provided that:
    - (a) the *subsidiary undertaking* is wholly owned; or
    - (b) no other *related party* of the *issuer* has an interest in the *subsidiary undertaking*; or
  - (2) a transaction or arrangement regarding remuneration, or certain elements of remuneration, of a *director* of the *issuer*, where the remuneration to be awarded or due to the *director* is in accordance with the *issuer's* directors' remuneration policy as approved by the shareholders of the *issuer* in accordance with section 439A of the Companies Act 2006 and paid in accordance with section 226B of the Companies Act 2006; or
  - (3) a transaction offered to all shareholders of the *issuer* on the same terms where equal treatment of all shareholders and protection of the interests of the *issuer* is ensured.

[**Note:** article 9c(6) of the *Shareholder Rights Directive*]

Material related party transactions

- 7.3.6 G Whether a *related party transaction* is a *material related party transaction* is determined by assessing its size relative to that of the *issuer* proposing to make it. The comparison of size is made by using the *percentage ratios* resulting from applying the *related party test* calculations to a transaction or arrangement. The *related party tests* are set out in *DTR 7 Annex 1*.

[**Note:** article 9c(1) of the *Shareholder Rights Directive*]

- 7.3.7 R In *DTR*:
- (1) “*percentage ratio*” means (in relation to a transaction or arrangement) the figure, expressed as a percentage, that results from applying a calculation under a *related party test* to the transaction or arrangement;
  - (2) “*related party tests*” means the tests set out in *DTR 7 Annex 1*, which are used to determine whether a transaction or arrangement is a *material related party transaction*; and

- (3) “*material related party transaction*” means a *related party transaction* where any *percentage ratio* is 5% or more.

[**Note:** article 9c(1) of the *Shareholder Rights Directive*]

#### Requirements for material related party transactions

- 7.3.8 R If an *issuer* enters into a *material related party transaction*, the *issuer* must:
- (1) no later than the time when the terms of the transaction or arrangement are agreed, publish an announcement on a *RIS* which sets out:
    - (a) the nature of the *related party* relationship;
    - (b) the name of the *related party*;
    - (c) the date and the value of the transaction or arrangement; and
    - (d) any other information necessary to assess whether the transaction or arrangement is fair and reasonable from the perspective of the *issuer* and of the shareholders who are not a *related party*, including minority shareholders;
  - (2) obtain the approval of its board for the transaction or arrangement before it is entered into; and
  - (3) ensure that any *director* who is, or an *associate* of whom is, the *related party*, or who is a *director* of the *related party*, does not take part in the board’s consideration of the transaction or arrangement and does not vote on the relevant board resolution.

[**Note:** article 9c(2) and 9c(4) of the *Shareholder Rights Directive*]

- 7.3.9 R If, after obtaining board approval but before the completion of a *material related party transaction*, there is a material change to the terms of the transaction or arrangement, the *issuer* must comply again separately with *DTR 7.3.8R* in relation to the transaction or arrangement.

- 7.3.10 G The *FCA* would (amongst other things) generally consider an increase of 10% or more in the consideration payable to be a material change to the terms of the transaction.

- 7.3.11 G
- (1) An *issuer* which complies with *LR 11.1.7R* (Requirements for related party transactions) in relation to a *material related party transaction* will satisfy the requirements of *DTR 7.3.8R* in respect of that transaction or arrangement.
  - (2) An *issuer* which complies with *LR 11.1.10R* (Modified requirements for smaller related party transactions) in relation to a

*material related party transaction* will satisfy the requirements of *DTR 7.3.8R(1)* in respect of that transaction or arrangement.

- (3) An *issuer* which complies with *LR 11.1.7R* as modified by *LR 21.5.2R* (Transactions with related parties: Equity shares) or *LR 21.10.4R* (Transactions with related parties: certificates representing shares) in relation to a *material related party transaction* will satisfy the requirements of *DTR 7.3.8R(1)* in respect of that transaction or arrangement.
- (4) An *issuer* which complies with *LR 11.1.10R* as modified by *LR 21.5.2R* or *LR 21.10.4R* in relation to a *material related party transaction* will satisfy the requirements of *DTR 7.3.8R(1)* in respect of that transaction or arrangement.

- 7.3.12 G *DTR 7.3.8R* applies to the variation or novation of an existing agreement between the *issuer* and a *related party* whether or not, at the time the original agreement was entered into, that party was a *related party*.

#### Aggregation of transactions in any 12-month period

- 7.3.13 R (1) If an *issuer* enters into transactions or arrangements with the same *related party* (and any of its *associates*) in any 12-month period, and the *issuer* has not been required to comply with *DTR 7.3.8R* in respect of the transactions or arrangements, the transactions or arrangements must be aggregated.
- (2) If any *percentage ratio* is 5% or more for the aggregated transactions or arrangements, the *issuer* must comply with *DTR 7.3.8R* in respect of each of the aggregated transactions or arrangements.

[**Note:** article 9c(8) of the *Shareholder Rights Directive*]

#### Compliance with the disclosure requirements

- 7.3.14 G An *issuer* should consider its obligations under the *disclosure requirements* in relation to a *related party transaction*.

[**Note:** article 9c(9) of the *Shareholder Rights Directive*]

Insert the following new Annex, DTR 7 Annex 1, after DTR 7.3 (Related party transactions). The text is not underlined.

## 7 The related party tests

### Annex 1

## Related party tests

1G This Annex sets out the following *related party tests*:

- (1) the gross assets test;
- (2) the profits test;
- (3) the consideration test; and
- (4) the gross capital test.

## The gross assets test

2R (1) The gross assets test is calculated by dividing the gross assets the subject of the transaction by the gross assets of the *issuer*.

(2) The “gross assets” of the *issuer* means the total non-current assets, plus the total current assets, of the *issuer*.

(3) For:

(a) an acquisition of an interest in an undertaking which will result in consolidation of the assets of that undertaking in the accounts of the *issuer*; or

(b) a disposal of an interest in an undertaking which will result in the assets of that undertaking no longer being consolidated in the accounts of the *issuer*,

the “gross assets the subject of the transaction” means the value of 100% of that undertaking’s assets irrespective of what interest is acquired or disposed of.

(4) For an acquisition or disposal of an interest in an undertaking which does not fall within paragraph (3), the “gross assets the subject of the transaction” means:

(a) for an acquisition, the consideration together with liabilities assumed (if any); and

(b) for a disposal, the assets attributed to that interest in the *issuer’s* accounts.

(5) If there is an acquisition of assets other than an interest in an undertaking, the “assets the subject of the transaction” means the consideration or, if greater, the book value of those assets as they will be included in the *issuer’s* balance sheet.

- (6) If there is a disposal of assets other than an interest in an undertaking, the assets the subject of the transaction means the book value of the assets in the *issuer's* balance sheet.

3G The *issuer* should consider, when calculating the assets the subject of the transaction, whether further amounts, such as contingent assets or arrangements referred to in LR 10.2.4R (indemnities and similar arrangements), should be included to ensure that the size of the transaction is properly reflected in the calculation.

### The profits test

- 4R (1) The profits test is calculated by dividing the profits attributable to the assets the subject of the transaction by the profits of the *issuer*.
- (2) For the purposes of paragraph (1), “profits” means:
- (a) profits after deducting all charges except taxation; and
  - (b) for an acquisition or disposal of an interest in an undertaking referred to in paragraph 2R(3)(a) or (b), 100% of the profits of the undertaking (irrespective of what interest is acquired or disposed of).
- (3) If the acquisition or disposal of the interest will not result in consolidation or deconsolidation of the target then the profits test is not applicable.

5G The amount of loss is relevant in calculating the impact of a proposed transaction under the profits test. An *issuer* should include the amount of the losses of the *issuer* or target, i.e. the *issuer* should disregard the negative when calculating the test.

### The consideration test

- 6R (1) The consideration test is calculated by taking the consideration for the transaction as a percentage of the aggregate market value of all the ordinary shares (excluding *treasury shares*) of the *issuer*.
- (2) For the purposes of paragraph (1):
- (a) the consideration is the amount paid to the contracting party;
  - (b) if all or part of the consideration is in the form of *securities* to be traded on a market, the consideration attributable to those *securities* is the aggregate market value of those *securities*; and
  - (c) if deferred consideration is or may be payable or receivable by the *issuer* in the future, the consideration is the maximum total consideration payable or receivable under the agreement.
- (3) If the total consideration is not subject to any maximum (and the other *related party tests* indicate the transaction to be a transaction where all the

*percentage ratios* are less than 5%) the transaction is to be treated as a *material related party transaction*.

- (4) For the purposes of sub-paragraph (2)(b), the figures used to determine consideration consisting of:
  - (a) *securities* of a class already *admitted to trading*, must be the aggregate market value of all those *securities* on the last *business day* before the announcement; and
  - (b) a new class of *securities* for which an application for *admission to trading* will be made, must be the expected aggregate market value of all those *securities*.
- (5) For the purposes of paragraph (1), the figure used to determine market capitalisation is the aggregate market value of all the ordinary *shares* (excluding *treasury shares*) of the *issuer* at the close of business on the last *business day* before the announcement.

7G The *issuer* should consider whether further amounts should be included in the calculation of the consideration to ensure that the size of the transaction is properly reflected in the calculation. For example, if the purchaser agrees to discharge any liabilities, including the repayment of inter-company or third-party debt, whether actual or contingent, as part of the terms of the transaction.

### **The gross capital test**

- 8R (1) The gross capital test is calculated by dividing the gross capital of the company or business being acquired by the gross capital of the *issuer*.
- (2) The test in paragraph (1) is only to be applied for an acquisition of a *company* or business.
- (3) For the purposes of paragraph (1), the “gross capital of the *company* or business being acquired” means the aggregate of:
  - (a) the consideration (as calculated under paragraph 6R);
  - (b) if a *company*, any of its *shares* and *debt securities* which are not being acquired;
  - (c) all other liabilities (other than current liabilities) including for this purpose minority interests and deferred taxation; and
  - (d) any excess of current liabilities over current assets.
- (4) For the purposes of paragraph (1), the “gross capital of the *issuer*” means the aggregate of:
  - (a) the market value of its *shares* (excluding *treasury shares*) and the issue amount of the *debt security*;

- (b) all other liabilities (other than current liabilities), including for this purpose minority interests and deferred taxation; and
  - (c) any excess of current liabilities over current assets.
- (5) For the purposes of paragraph (1):
- (a) figures used must be, for *shares* and *debt security* aggregated for the purposes of the gross capital percentage ratio, the aggregate market value of all those *shares* (or if not available before the announcement, their nominal value) and the issue amount of the *debt security*; and
  - (b) for *shares* and *debt security* aggregated for the purposes of paragraph (3)(b), any *treasury shares* held by the *company* are not to be taken into account.

### Figures used to classify assets and profits

- 9R
- (1) For the purposes of calculating the tests in this Annex, except as otherwise stated in paragraphs (2) to (7), the figures used to classify assets and profits must be the figures shown in the latest published audited consolidated accounts or, if an *issuer* has, or will have, published a preliminary statement of later annual results at the time the terms of a transaction are agreed, the figures shown in that preliminary statement.
  - (2) If a balance sheet has been published in a subsequently published interim statement then gross assets and gross capital should be taken from the balance sheet published in the interim statement.
  - (3)
    - (a) The figures of the *issuer* must be adjusted to take account of transactions completed during the period to which the figures referred to in (1) or (2) relate, and subsequent completed transactions which the *issuer* would have been required to notify to a *RIS* under *LR 10.4* or *LR 10.5* if the *issuer* had a *premium listing*, provided that for such subsequent completed transactions the figures for the transactions are reasonably available to the *issuer*.
    - (b) The figures of the target company or business must be adjusted to take account of transactions completed during the period to which the figures referred to in (1) or (2) relate, and subsequent completed transactions which would have been a class 2 transaction or greater for the purposes of the *listing rules* when classified against the target as a whole, provided that for such subsequent completed transactions the figures for the transactions are reasonably available to the target.
  - (4) Figures on which the auditors are unable to report without modification must be disregarded.
  - (5) When applying the *percentage ratios* to an acquisition by a *company* whose assets consist wholly or predominantly of cash or short-dated *securities*, the

cash and short-dated *securities* must be excluded in calculating its assets and market capitalisation.

- (6) The principles in this paragraph also apply (to the extent relevant) to calculating the assets and profits of the target company or business.

10G The *FCA* may modify paragraph 9R(4) in appropriate cases to permit figures to be taken into account.

### Anomalous results

11G If a calculation under any of the *related party tests* produces an anomalous result, or if a calculation is inappropriate to the activities of the *issuer*, the *FCA* may modify the relevant *rule* to substitute other relevant indicators of size, including industry-specific tests.

### Adjustments to figures

12G Where an *issuer* wishes to make adjustments to the figures used in calculating the *related party tests* pursuant to 11G they should discuss this with the *FCA* before the *related party tests* crystallise.

### The profits test: anomalous results

13R Paragraph 14R applies to an *issuer* where the calculation under the profits test produces a *percentage ratio* of 5% or more and this result is anomalous.

14R An *issuer* may, where each of the other applicable *percentage ratios* are less than 5%, disregard the profits test for the purposes of classifying the transaction.

Amend the following as shown.

## TP 1 Disclosure and transparency rules

### DTR Sourcebook –Transitional Provisions

(1)	(2) Material to which the Transitional Provision applies	(3)	(4) Transitional Provision	(5) Transitional Provision: dates in force	(6) Handbook Provision: coming into force
...					
<u>31</u>	<u>DTR 7.3 and DTR 7 Annex 1</u>	<u>R</u>	<u>An issuer is only required to comply with DTR 7.3 and DTR 7 Annex 1 from the start of the financial</u>	<u>From 10 June 2019 to 31 December 2020</u>	<u>10 June 2019</u>

		<p><u>year beginning on or after 10 June 2019.</u></p> <p><u>For the purposes of DTR 7.3.13R, only transactions or arrangements which are entered into on or after the start of the financial year beginning on or after 10 June 2019 must be aggregated.</u></p>		
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