

UKLA Technical Note

Scope and application of vote holder and issuer notification rules

Ref: UKLA / TN / 541.12 Guidance Consultation

DTR 5

~~DTR 5 requirements concern~~ relate to the control over exercising voting rights attached to shares. ~~Disclosing~~ The disclosure of changes in major shareholdings ~~are~~ designed to enhance market transparency.

DTR 5 requires holders of shares and certain financial instruments to inform the issuer and us simultaneously when their holdings reach or fall below certain thresholds. Issuers must then disseminate this information to the wider market.

Issuer scope

Issuers on regulated markets

UK issuers whose shares are traded on regulated markets must comply with DTR 5.

- Non-UK issuers whose shares are traded on a regulated market, and for whom the UK is their home ~~m~~Member sState, must comply with the Transparency Directive's (TD) minimum disclosure requirements only (super-equivalent requirements do not apply). However, non-EEA issuers can be exempt from certain TFD requirements if their domestic regime is deemed equivalent, or if the issuer complies with the requirements of the law of a non-EEA State that we consider equivalent.
- EEA issuers who comply with their home Mmember Sstate notification obligations; ~~incorporated in another member state with a registered office located other than in the UK, whose shares are traded on a UK regulated market,~~ will not be expected to comply with DTR 5, as they will already be required to comply with corresponding requirements in their home member states.

Issuers on prescribed markets

UK issuers whose shares are traded on a prescribed market, such as AIM or ISDX Growth, must comply with DTR 5.

Non-UK issuers whose shares are traded on these markets are not required to comply with DTR 5.

Issuers of Global Depositary Receipts (GDRs)

We have received enquiries about how the DTRs apply to issuers of Listed Global Depositary Receipts (GDRs). (For the purposes of this note we mean especially in relation to DTR 5 – Major Shareholder Notifications (MSN).):

In summary, we would not normally expect DTR 5 to apply to GDR issuers (i.e. the issuers of shares underlying GDRs where the GDRs are admitted to trading on a regulated market, not the depositary). Article 9 (1) of the TD, on which DTR 5 is based, states that the MSN regime's scope is issuers whose shares are admitted to trading on a regulated market and to which voting rights are attached. As a GDR is not itself a share, the fact that it may be admitted to trading on a regulated market does not of, in itself, bring the GDR issuer within the scope of DTR 5. So, unless the issuer's shares are admitted to trading on a regulated market, we believe that GDR issuers will not fall within the scope of DTR 5.

If the issuer of the shares underlying the GDR has voting shares which are admitted to trading on a regulated market, the holder of depositary receipts representing those shares is treated as the holder of those underlying shares (by virtue of the definition of shareholder in the TD, as copied out into the FSCA Glossary) for the purposes of DTR 5 disclosure obligations.

We also note that LR 18.4.3R(2) requires an overseas company that is the issuer of the underlying securities to comply with LR 14.3, and by looking at LR 14.3.23 R, there seems to be an obligation to comply with DTRs 4, 5 and 6. This is a result of LR 14.3.23R being added to LR 14.3 after the original reference in LR 14.4.3R was added, without the corresponding amendment to LR 14.4.3R being made. We clarify that we do not expect all GDR issuers to comply with all of DTRs 4, 5 and 6.