

# Summary of Continuing Obligation Requirements

## for issuers with GDRs listed on the London Stock Exchange

### FSA CONTACT DETAILS

For all listing and disclosure rules, please see **FSA's Handbook**.

<http://fsahandbook.info/FSA/html/handbook/LR>

<http://fsahandbook.info/FSA/html/handbook/DTR>

Should you have any questions on your continuing obligations, you should call the **FSA helpdesk** on **+44 (0)20 7066 8333**, choosing option 4 (Company Monitoring), or e-mail: [TD\\_queries@fsa.gov.uk](mailto:TD_queries@fsa.gov.uk)

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**J.P.Morgan**

**MEMORANDUM**  
**CONTINUING OBLIGATION REQUIREMENTS FOR ISSUERS WITH**  
**GDRs LISTED ON THE LONDON STOCK EXCHANGE**

**INTRODUCTION**

This memorandum provides an overview of the GDR issuer's principal continuing obligations following a GDR listing on the Official List of the Financial Services Authority (the "**FSA**") and trading on the London Stock Exchange ("**LSE**"). Attached to this summary of the regulatory background is a Schedule with more detailed information on the requirements.

A GDR issuer is strongly recommended to take further advice where it is unsure of its obligations. A GDR issuer should also take advice in relation to matters of a non-routine nature such as, a follow-on offering of its listed securities, the listing of other classes of its shares (or debt securities), amendments to its constitution or by-laws, amendments to its employee share schemes or any significant corporate transactions.

**REGULATORY BACKGROUND – EUROPE**

The European Union's (the "**EU**") **Prospectus Directive** was implemented by EU Member States in 2005. The Prospectus Directive sets out the initial disclosure obligations for issuers of securities that are offered to the public or admitted to trading on a regulated market in the EU. The Prospectus Directive also provides a passport for issuers that enables them to raise capital across the EU on the basis of a single prospectus.

The EU's Transparency Obligations Directive (the "**TOD Directive**") was implemented by EU member states in January 2007. The TOD Directive has the twin aims of creating a more efficient, transparent and integrated pan-European securities trading market and facilitating the disclosure of accurate, comprehensive and timely issuer information in order to allow investors to make an informed assessment of the GDR issuer's business performance and assets. The TOD Directive does not have any requirements that would be considered unusual by contemporary disclosure standards and include, for instance:

- the preparation of an annual financial report in accordance with IFRS;
- keeping the market informed of company developments in a timely manner; and
- informing the public of changes to major holdings in the GDR issuer enabling investors to acquire or dispose of securities in full knowledge of changes in the voting structure.

**REGULATORY BACKGROUND – UK**

The FSA is the principal regulator of companies listed in London, also known as the UK "Competent Authority" in the terms of the Prospectus Directive. The FSA is responsible for regulatory matters, such as the processing of applications for admission to listing, together with the review of all appropriate shareholder and other documentation connected with these applications. It also monitors compliance with and enforcement of the obligations and responsibilities which are required of all listed companies. An issuer's obligations are largely set out in the **FSA's Listing Rules**, the **Prospectus Rules** and the **Disclosure and Transparency Rules** (the "**DTRs**"), together the "**FSA Rules**". These rules are set out in the FSA handbook, which can be found on the FSA's Web site ([www.fsa.gov.uk](http://www.fsa.gov.uk)).

The role of the LSE is limited to the admission and monitoring of trading of listed securities on its markets. To this end, the LSE has responsibility for admitting companies and their securities for trading on its markets and has, for this purpose, its own separate set of rules, known as the "Admission and Disclosure Standards" (the "**LSE Standards**").

A GDR issuer is subject to certain continuing obligations under the FSA Rules and the LSE Standards. The FSA Rules should be viewed as the main source of the GDR issuer's ongoing regulatory obligations. The LSE Standards contain a certain degree of overlap with the FSA Rules and, for example, Rule 3.1 of the LSE Standards provides that the GDR issuer must comply with all of the FSA Rules. Thus, a breach of the FSA Rules may be deemed to be a breach of the LSE Standards. It should be noted that the EU gives local regulators authority over the enforcement of certain exemptions within the various Directives.

## **RESPONSIBILITY AND SANCTIONS FOR NON-COMPLIANCE WITH THE FSA RULES**

A GDR issuer is required to ensure that its directors accept full responsibility, collectively and individually, for the issuer's compliance with applicable FSA Rules. Failure by the GDR issuer to comply with any applicable continuing obligation may result in the FSA taking one or more of the following:

- private warning;
- public censure;
- financial penalties;
- suspension of listing; and ultimately
- cancellation of listing.

Primary responsibility for compliance rests with the GDR issuer and, as such, action taken by the FSA will in the first instance be against the GDR issuer. However, as well as being able to issue private warnings to directors (and/or former directors), the FSA also has the power to take disciplinary action involving public censures and financial penalties against directors (and/or former directors) who were knowingly involved in the breach of the FSA Rules by the GDR issuer. It will be, therefore, in the directors' own interests to try to ensure that the continuing obligations of the applicable FSA Rules are complied with.

Finally, the FSA, from time to time, does change the FSA Rules and companies will be expected to comply with any such amendments, so companies must ensure that they take note of any such changes.

# SCHEDULE OF

Event	FSA/LSE requirement	
<b>A. Corporate actions</b>		
1. Filing of corporate documentation (and any amendments thereto)	<p>The GDR issuer must file two English-language copies of the following documents with the FSA by sending the documents by post/recorded delivery to the FSA:</p> <ul style="list-style-type: none"> <li>- any circulars (documents issued to holders of listed securities, including notices of meetings but excluding prospectuses, listing particulars, annual reports and accounts, interim reports, proxy cards and dividend or interest vouchers);</li> <li>- any notices, reports or other documents to which the Listing Rules apply;</li> <li>- all resolutions passed by the GDR issuer other than resolutions passed at its annual general meeting and those relating to matters in the ordinary course of business;</li> <li>- temporary documents of title in its listed securities (including renounceable documents); and</li> <li>- definitive documents of title.</li> </ul> <p>The GDR issuer must notify a Regulatory Information Service (“<b>RIS</b>”) on the filing of any such documents with the FSA together with a notification as to where copies of these documents can be found (in practice this will be the FSA document viewing facility) unless the full text of the document is supplied to the RIS.</p>	
2. Follow-on issues of GDRs	GDRs of the same class as those already listed are allotted, an application for admission to listing of such GDRs must be made. In many circumstances a prospectus is also required.	
3. Notifications relating to capital	<p>The GDR issuer must notify a RIS of the following information relating to its capital:</p> <ul style="list-style-type: none"> <li>- any proposed change in its capital structure, including the structure of its debt, except that an announcement of a new issue may be delayed while marketing or underwriting is in progress;</li> <li>- any changes in the rights of GDR holders, including any changes in the terms and conditions of any securities which may indirectly affect the rights of GDR holders; and</li> <li>- the results of any new issue of equity securities or of a public offering of existing shares or other equity securities in the GDR issuer.</li> </ul>	
4. GDRs in public hands	On admission of the GDRs, at least 25% of the GDRs must be placed in “public hands”, and the GDR issuer should comply with this requirement on an ongoing basis.	
5. Depositary	The GDR issuer will have to notify a RIS of any change in GDR depositary.	
6. Dividends	<p>A GDR issuer should notify the GDR depositary and the LSE as soon as possible, and preferably 10 days in advance of any proposed dividend payment, together with its dividend timetable and must ensure that the dividend announcement includes the following information:</p> <ul style="list-style-type: none"> <li>- the net amount;</li> <li>- the record and payment dates; and</li> <li>- the availability of scrip or DRIP options.</li> </ul>	
<b>B. Disclosure obligations and inside information</b>		
1. Disclosure obligations relating to price sensitive information and trading matters	<p>The GDR issuer must notify a RIS of any <i>inside information</i> that directly concerns it. <i>Inside information</i> is defined under section 118C of the Financial Services and Markets Act 2000 as <b>being information of a precise nature that is not generally available which would, if generally available, be likely to have a significant effect on the price of the GDR issuer’s securities.</b></p> <p>Any information disclosed pursuant to Disclosure and Transparency Rules <b>2.2.1</b> must also be posted on the GDR issuer’s Web site.</p>	

## ONGOING OBLIGATIONS

	Rule/standard	Timing
	Listing Rule <b>14.3.6</b>	Filed with the FSA at the time the circular is issued
	Listing Rule <b>14.3.9</b>	Filed with the FSA at the time such document is issued
	Listing Rule <b>14.3.7</b>	Filed with the FSA at the time such document is issued
	Listing Rule <b>14.3.10</b>	Filed with the FSA as soon as possible after the relevant general meeting
	Listing Rule <b>14.3.4</b>	An application for admission must be made as soon as possible, and in any event within one year of the allotment.
	Listing Rule <b>14.3.17</b> Disclosure and Transparency Rule <b>6.1.10</b>	Notify a RIS without any delay. N.B. Under Listing Rule 14.3.18, where the securities are subject to an underwriting agreement, a company may delay notifying a RIS as required by Listing Rule <b>14.3.17</b> for up to two business days until the obligation by the underwriter to take or procure others to take securities is finally determined or lapses. In the case of an issue or offer of securities that is not underwritten, notification of the result must be made as soon as it is known.
	Listing Rule <b>18.2.8</b>	The GDR issuer should comply at all times and should contact the FSA for guidance if this falls below 25%.
	Listing Rule <b>18.4.4/18.4.5</b>	Notify a RIS as soon as possible, and in any event by 7:30 a.m. on the business day following the change of GDR depositary.
	Recommended Practice LSE Standard <b>3.8</b>	Preferably 10 days in advance
	Disclosure and Transparency Rule <b>2.2.1</b>	Notify a RIS <b><u>as soon as possible</u></b> . (RIS can receive notifications even if the London market is closed.)
	Disclosure and Transparency Rule <b>2.3</b>	<p>Any <i>inside information</i> announced via a RIS must be available on the GDR issuer's Internet site by close of the business day following the day of the RIS announcement.</p> <p>N.B. The disclosure of information in accordance with Disclosure and Transparency Rule 2.2.1 may be delayed <b>at the GDR issuer's own risk</b> where the disclosure of the information might disadvantage it, provided that:</p> <ul style="list-style-type: none"> <li>- this omission of disclosure is not likely to mislead the public;</li> <li>- any other third party receiving information before the public owes a duty of confidentiality to the GDR issuer; and</li> <li>- the GDR issuer can otherwise ensure the confidentiality of this information.</li> </ul>

Event	FSA/LSE requirement	
	<p>Where the GDR issuer, or a person acting on the GDR issuer's behalf, discloses <i>inside information</i> to any third party through the normal exercise of his employment or duties, the GDR issuer must make complete and effective public disclosure of that information via a RIS.</p> <p>The GDR issuer must also have measures in place to deny access to <i>inside information</i> to persons other than those who require it for the exercise of their functions on behalf of the GDR issuer, and that anyone who does have access to this information fully understands the full legal and regulatory duties associated with such confidential information and the sanctions associated with any improper dissemination.</p>	
2. Insider lists	The GDR issuer must ensure that it and its advisors draw up a list of persons who have access (whether on a regular or occasional basis) to any inside information. This list must be continually updated as soon as there are any changes to its composition.	
3. Disclosure of management dealings	All directors of the GDR issuer and persons with managerial responsibility must notify the GDR issuer of all transactions relating to the shares (or any related derivative or other related financial instruments) conducted for their own account. This rule also applies in relation to any transactions conducted by any connected person to these individuals (i.e., their immediate family or any related trust or company).	
C. Periodic financial reporting		
1. Annual report	<p>The GDR issuer must publish its annual report, including audited financial statements, management report and responsibility statements. These annual reports must be prepared in accordance with the national law of the GDR issuer and also comply with national accounting standards or IAS. The accounts must have been independently audited.</p> <p>From 29 June 2008 the GDR issuer will be required to have an audit committee (or equivalent committee) of which one member must be independent and one member must have competence in accounting and/or auditing. The committee must monitor (i) the GDR issuer's financial reporting process (ii) the effectiveness of the GDR issuer's internal control and risk management systems; (iii) the statutory audit of the GDR issuer's annual accounts; and (iv) the independence of the GDR issuer's auditor.</p> <p>GDR issuers should ensure that they are aware of their home country's rules regarding the preparation of audit reports.</p> <p>GDR issuers should ensure that they are aware of the impact of the Statutory Audit Directive, which comes into force from 29 June 2008. It requires that issuers that are incorporated in certain countries outside the EU, but whose GDRs (or other securities) are listed on a regulated market in the EU (including the LSE), must be audited by an EU registered auditor. A limited number of non-EU countries either (i) are deemed to have "equivalent" auditor standards/requirements, so auditors registered in those countries are not required to be registered under this directive, or (ii) will be given time (until 1 July 2010) to ensure that they amend their auditor standards/requirements to an "equivalent" level.</p>	
2. Half-yearly report	No formal requirement, but best practice recommends publication.	
D. General administration		
1. Annual listing fee	The GDR issuer must pay the annual listing fee.	
2. LSE trading fee	The GDR issuer must pay the annual admission to trading fee.	
3. Annual information update	The GDR issuer must prepare a document listing all the information that has been disclosed to the public pursuant to any securities regulations over the previous 12 months.	
4. Contact details	The GDR issuer must provide the FSA with the contact details of an appropriate person to act as its first point of contact with regard to its listing.	

	Rule/standard	Timing
	Disclosure and Transparency Rule <b>2.5.6</b>	In the case of intentional disclosure, then public disclosure via a RIS must be made simultaneously with the disclosure to the third party. In the case of non-intentional disclosure, then public disclosure via a RIS must be made as soon as possible.
	Disclosure and Transparency Rule <b>2.6.1</b>	The GDR issuer must comply at all times.
	Disclosure and Transparency Rule <b>2.8</b>	Ensure that it is automatically updated.
	Disclosure and Transparency Rule <b>3.1</b>	All persons must notify the GDR issuer of all such transactions within four business days of such transaction occurring. Issuer has no obligation to disclose such information publicly.
	Listing Rule <b>18.4.3A</b>	Annual report must be published within four months of the end of the financial year (commencing year-end 31 December 2008).
	Disclosure and Transparency Rule <b>7.1</b>	At all times.
	J.P. Morgan can provide list of those countries in category (ii) and (iii)	
	N/A	Recommended to publish half-yearly reports within two months of the end of the period to which they relate.
	Listing Rule <b>1.4.8</b> , Disclosure and Transparency Rule <b>1A.4.1</b>	Paid as soon as it becomes due.
	LSE Standard <b>3.13</b>	Paid as soon as it becomes due.
	Prospectus Rule <b>5.2.1</b>	Prepared annually. This document must be published through a RIS within 20 days of publication of the GDR issuer's annual financial statements.
	Listing Rule <b>14.3.8</b>	At all times.

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