

## CONSOLIDATED LEGISLATION

Royal Decree 1362/2007 of 19 October 2007 implementing the *Ley 24/1988, de 28 de julio, del Mercado de Valores* [Securities Market Act] on transparency requirements in relation to information about issuers whose securities are admitted to trading on an organised exchange or other regulated market in the European Union

Ministry of Economic Affairs and Finance. BOE [*Boletín Nacional del Estado*, Spanish national gazette], No. 252, of 20 October 2007 Reference: BOE-A-2007-18305

### CONSOLIDATED TEXT Last amended: 3 October 2015

This Royal Decree completes the incorporation to Spanish law of European law on transparency in relation to information about issuers whose securities are admitted to trading on a Spanish organised exchange or other regulated market in the European Union. The origin of this statutory instrument is the Financial Services Action Plan of the European Union adopted by the European Commission in 1999. The Plan consists of a set of measures adopted within the ambit of the European Union with the aim of completing the single market in financial services. One of the highlights the Plan was the adoption of Directive 2004/109/EC of the European Parliament and of the Council of 15 December 2004 on the harmonisation of transparency requirements in relation to information about issuers whose securities are admitted to trading on a regulated market and amending Directive 2001/34/EC. That legislative act, as set out in the first paragraph of its preamble, is based on the insight that efficient, transparent and integrated securities markets contribute to a genuine single market in the Community and foster growth and job creation by better allocation of capital and by reducing costs. The disclosure of accurate, comprehensive and timely information about security issuers builds sustained investor confidence and allows an informed assessment of their business performance and assets. This enhances both investor protection and market efficiency.

With these two aims, Directive 2004/109/EEC designs a regime on information, termed “regulated information”, that comprises, first, the public information that issuers must publish and disclose to the market on a regular basis (annual and half-yearly reports and interim management statements and quarterly reports), and, secondly, information about issuers that must be available to the public and disclosed on a continuing basis (relevant information under the regime on market abuse, identity of major shareholders, and transactions involving own shares). Some aspects of Directive 2004/109/EC are implemented in Commission Directive 2007/14/EC of 8 March 2007 laying down detailed rules for the implementation of certain provisions of Directive 2004/109/EC on the harmonisation of transparency requirements in relation to information about issuers whose securities are admitted to trading on a regulated market.

The essential elements of Directive 2004/109/EC have already been incorporated to Spanish law by the recent adoption of *Ley 6/2007*, amending *Ley 24/1988* [Securities Market Act], for the modification of the regime of public takeover bids and issuer transparency, published in the *Boletín Oficial del Estado* on Friday, 13 April 2007. The main purpose of this Royal Decree is accordingly to implement the changes made to the Securities Market Act so as to incorporate to Spanish law that part of Directive 2004/109/EC that was not covered by *Ley 6/2007*, and to incorporate Directive 2007/14/EC, which implements the earlier directive.

The Royal Decree begins with a Preliminary Title containing general provisions determining the scope of the statutory instrument, defining the elements that compose the regulated information and creating a

duty on the issuer to publish and disclose that information and contemporaneously to submit such information to the Comisión Nacional del Mercado de Valores [Spanish Securities Market Commission]. The issuer may choose whether to disclose such information directly or entrust that role to a third party, which may be the Spanish Securities Market Commission or another medium, such as stock exchanges or the media. The Spanish Securities Market Commission's register of regulated information is a central mechanism for storing such information. The Preliminary Title concludes with the language regime applicable to the regulated information, this being the natural capstone of a set of rules on financial information that are harmonised throughout the European Union, and an essential element against a background where EU financial markets tend increasingly towards integration.

Title I and II set out the rules on the information that issuers must publish and disclose periodically (Title I) and continuously (Title II).

Title I thus sets out the duties and obligations of issuers as to producing and disclosing the annual financial report, half-yearly financial reports, and the interim management statement. For each type of report, the Royal Decree specifies various points, such as the content, the time limit for submission, the applicable accounting principles, the responsibilities surrounding their production and publication, and the conditions that must be satisfied for the standards on periodic public reporting for companies listed in Spain and having their registered office in a non-European Union third country to be considered equivalent to Spanish standards. It is to be noted that the Royal Decree enables the *Ministro de Economía y Hacienda* [Minister for Economic Affairs and Finance] to put in place additional information requirements as to related-party transactions, such that, unless altered, there remains in force *Orden* [Order] *EHA/3050/2004* of 15 September 2004 on information on related-party transactions to be supplied by issuers of securities admitted for trading on organised exchanges.

Title II implements reporting duties and obligations as to major holdings and own shares. Article 54 of the Securities Market Act prescribes that shareholders and the holders of certain financial instruments must notify the issuer and the Spanish Securities Market Commission of the acquisition or loss of a major share of voting rights at the company. The Royal Decree specifies a range of points relating to this obligation, such as the percentage of voting rights that are to be viewed as major holdings (3 %, 5 %, 10 %, 15 %, 20 %, 25 %, 30 %, 35 %, 40 %, 45 %, 50 %, 60 %, 70 %, 75 %, 80 % and 90 %), the determination of persons other than the shareholder who are under the duty to notify the major holding, exceptions to the duty of notification, time limits for the notification, and the content of the notification. Moreover, rules are made as to special situations of notification of major holdings, such as cases of capital increases out of reserves, transfer of securities *mortis causa* or by reason of liquidation of the company or by reason of merger or de-merger of companies, or notifications in the course of a public takeover bid, which last event gives grounds for a strengthening of transparency requirements. Furthermore, it is to be noted that the duty to notify major holdings that binds directors and executives must be discharged independently of the duties to report transactions by those persons under article 9 of Royal Decree 1333/2005 of 11 November 2005 implementing the Securities Market Act in relation to market abuse. In addition, the Royal Decree creates certain reporting duties binding the issuer as to holdings of its own shares (treasury shares), such as the percentage of voting rights that must be notified (1%) and the content of such notification. Further, this statutory instrument sets the terms for accepting the equivalence to Spanish standards of the transparency rules on major holdings and own shares of companies listed in Spain and having their registered office in a non-European Union third country.

Independently of the situation contemplated in Order *EHA/3050/2004*, referred to above, the text has been designed so as to render unnecessary any further implementation by means of *Órdenes Ministeriales* [Ministerial Orders]. However, the Spanish Securities Market Commission must use its power to prescribe the model forms for notification of periodic information, the content of voluntary

quarterly reports and model forms for notifying major holdings and own shares.

The articles of the Royal Decree also introduce other reporting duties binding issuers under Title III. This is the duty of issuers to provide to shareholders and holders of debt instruments the information and mechanisms required for them to exercise their rights. The Royal Decree is not limited to incorporating the two Directives on transparency, because it adds to the articles of Title III duties that already existed in our law and do not have their source in the implementation of European Union law, such as the duty of directors and executives of listed companies to notify to the Spanish Securities Market Commission of the award in their favour of any remuneration system involving the delivery of shares of the company in which they exercise their office, or options over such shares, or the settlement which is tied to the performance of the price of such shares.

Finally, this Royal Decree concludes with two additional provisions, a transitional provision and three final provisions. The first additional provision clarifies that, for the purposes of the market abuse regime, 'business days' are defined as trading days of organised exchanges. This coordinates the rules on transparency with the rules on market abuse. The second additional provision sets out these special rules applicable to parliamentary information to be disclosed by the Sociedad Estatal de Participaciones Industriales [state-controlled industrial investment company] and its member entities in accordance with article 16 (2) of *Ley 5/1996* on the creation of certain entities subject to public law. The transitional and final provisions design a regime for the entry into force of the rules of this Royal Decree that will enable issuers and holders of major holdings to make a harmonious transition to the new legal framework of transparency from the framework that was in effect before the entry into force of this statutory instrument.

This Royal Decree expressly repeals Royal Decree 377/1991 15 March 1991 on the notification of major holdings in listed companies and acquisitions by listed companies of own shares, the Ministerial Order of 18 January 1991 on periodic public information disclosed by issuers of securities admitted to trading on organised exchanges, and the Ministerial Order of 23 April 1991, implementing Royal Decree 377/1991 of 15 March 1991 on the notification of major holdings in listed companies and acquisitions by listed companies of own shares, and is now issued in the exercise of the powers granted under articles 35, 35 *bis*, 35 *ter*, 53 and 53 *bis* of the Securities Market Act.

Now, therefore at the behest of the Minister for Economic Affairs and Finance, with the consent of the Council of State, and after deliberation by the Council of Ministers at their meeting of 19 October 2007,

I now D I S P O S E as follows:

## PRELIMINARY TITLE

### **General provisions**

#### *Article 1. Scope*

1. This Royal Decree makes provision for the content, publication and disclosure of regulated information on issuers of securities admitted to trading on an organised exchange or other regulated market in the European Union when Spain is the home Member State.

2. Regulated information includes:

- a) The periodic information regulated under articles 35 and 35 *bis* of the Securities Market Act.
- a) The information on major holdings and transactions involving own shares within articles 53 and 53 *bis* of the Securities Market Act.
- c) Information on the total number of voting rights and capital at the end of each calendar month during which any decrease or increase has occurred as a result of changes in the total number of voting rights as referred to in article 53(1) of the Securities Market Act and in accordance with that paragraph.

d) The relevant information referred to in article 82 of the Securities Market Act.

e) The report on payments to public authorities referred to in additional provision ten of *Ley 22/2015* [Accounts Audit Act].

3. For the purposes of the Royal Decree 'issuer' means a natural person, or a legal entity governed by private or public law, including a State, whose securities are admitted to trading on an organised exchange or a regulated market of the European Union.

In the case of depository receipts admitted to trading on an organised exchange or other regulated market based in the European Union that represent shares or bonds, 'issuer' means the issuer of the securities represented, whether or not those securities are admitted to trading on the markets referred to.

For the purposes of this Royal Decree, any reference to legal entities shall be understood as including registered business associations without legal personality and trusts.

4. For the purposes of this Royal Decree 'tradable security' means a security within the scope of article 3(2) of Royal Decree 1310/2005 implementing the Securities Market Act on admission to trading of securities on organised exchanges, public offers for sale or subscription, and the prospectus required for those purposes.

5. The foregoing paragraphs notwithstanding, this Royal Decree does not apply to closed-end collective investment undertakings or their participants or shareholders or to issuers of promissory notes having a maturity of less than 12 months.

#### *Article 2. Definition of home Member State*

1. For the purposes of this Royal Decree Spain is the home Member State in accordance with the following rules.

2. For issues of shares or of debt securities the nominal denomination per unit of which is, at the date of the issue, less than EUR 1,000 or less than its EUR equivalent on the date of issue if denominated in foreign currency, Spain will be understood to be the home Member State.

a) If an issuer incorporated in a European Union Member State has its registered office in Spain.

b) If the issuer is incorporated in a non-European Union state and has chosen Spain as its home Member State, provided that its securities are admitted to trading on a Spanish organised exchange. This choice shall remain valid unless the issuer has chosen a new home Member State under section 5 and has disclosed the choice in accordance with section 6 of this article.

3. In respect of issuers other than those mentioned in section 2, Spain will be understood to be the home Member State whenever so chosen by the issuer, provided that:

a) the issuer has its registered office in Spain, or b) the securities have been admitted for trading on a Spanish organised exchange.

4. The issuer's choice of Spain as home Member State referred to in section 3 above will be exclusive and valid for at least three years, unless:

a) its securities cease to be admitted to trading on a regulated market of the European Union, or

b) the issuer becomes subject to the provisions of sections 2 or 5 during the three-year period.

5. If the securities of an issuer that has chosen Spain as its home Member State in accordance with sections 2(b) and (3) cease to be admitted to trading on a Spanish organised exchange, the issuer may choose as its home Member State another Member State of the European Union, provided that the new chosen home Member State is one in which the issuer's securities are admitted to trading on a regulated market or, for issuers of securities other than those referred to in section 2, the Member State in which the

issuer has its registered office.

6. The issuers for which Spain is their home Member State in accordance with this article shall:

a) Disclose this status to the Spanish Securities Market Commission, to the competent authorities of all host Member States, and, where applicable, to the competent authority of the Member State where they have their registered office, and

b) Disclose such status pursuant to articles 4 and 7.

7. If in the three months after the admission to trading on a Spanish organised exchange the issuer of such securities has omitted to notify its choice of home Member State, by virtue of paragraph 2(b) or paragraph (3) it will be automatically understood that Spain is the home Member State.

If in the events referred to in the foregoing paragraph in addition to listing on a Spanish organised exchange the securities are admitted to trading on regulated markets situated or operating within more than one Member State, Spain will be understood to be one of the home Member States until a subsequent choice of a single home Member State has been made and disclosed by the issuer.

#### *Article 3. Host Member State*

For the purposes of application of this Royal Decree it will be understood that Spain is the host Member State if the securities are admitted to trading on a Spanish organised exchange and, in accordance with the preceding article, Spain is not the home Member State.

#### *Article 4. Publication and disclosure of regulated information*

1. The issuer must publish the regulated information on its website and contemporaneously disclose the regulated information through a medium assuring prompt access to it, which must be non-discriminatory and general for the public throughout the entire European Union, without a right to collect from investors any specific cost for the supply of the information.

The issuer may choose whether to disclose the regulated information directly or entrust that role to a third party acting as discloser, which may be the Spanish Securities Market Commission or another medium, such as stock exchanges or media of communication, provided that the requirements of the following paragraphs are satisfied.

2. The issuer must transmit to the discloser the regulated information in its complete unmodified version. However, for periodic public information it will suffice that an indication be given of the website on which the respective documents are available.

3. The issuer must transmit the regulated information to the discloser in a manner which ensures the security of the communication, minimises the risk of data corruption and unauthorised access, and provides certainty as to the source of the regulated information. Security of receipt shall be ensured by remedying as soon as possible any failure or disruption in the communication of regulated information.

4. The issuer will not be responsible for systemic shortcomings or errors of the discloser to which it has communicated the regulated information.

5. The issuer shall transmit the regulated information in a way which makes clear that the information is regulated information, identifies clearly the issuer concerned, the subject matter of the regulated information and the time and date of the communication.

6. When so requested the issuer shall be able to communicate to the Spanish Securities Market Commission, in relation to any disclosure of regulated information, the following:

a) the name of the person who communicated the information; b) the security validation details; c) the time and date on which the information was communicated; d) the medium of the communicated information; e) if applicable, details of any embargo placed by the issuer on the regulated information.

7. The duties and obligations imposed on the issuer under this article apply also to the person who has applied for admission to trading on an organised exchange or other regulated market in the European Union without the issuer's consent.

#### *Article 5. Central mechanism for storage of regulated information*

The official register of the Spanish Securities Market Commission provided for in article 92(g) of the Securities Market Act will be considered as the central mechanism for storage of regulated information. The Spanish Securities Market Commission must ensure that such mechanism is compliant with the principles of security, certainty as to the information source, time recording and easy access by end users. In addition, that mechanism must be capable of connecting with similar storage mechanisms in the European Union for the aim of sharing information.

#### *Article 6. Oversight of regulated information by the Spanish Securities Market Commission*

1. When the issuer publishes regulated information it must contemporaneously submit it to the Spanish Securities Market Commission for entry in the official register provided for in paragraph (g) of article 92 of the Securities Market Act. This duty does not apply to issuers in relation to the publication of the notifications referred to in Chapter I of Title II.

2. Where Spain is the host member state and the securities are admitted to trading on one organised exchange only, the Spanish Securities Market Commission shall ensure disclosure of regulated information in accordance with the requirements referred to in article 4.

#### *Article 7. Language of the regulated information*

1. Where the securities are admitted to trading only on one or on several organised exchanges and

the issuer has its registered office in Spain, the regulated information shall be published in Spanish.

2. Where the issuer has its registered office in a country other than Spain, the regulated information shall be published, at the issuer's election:

a) in Spanish; or b) in a language customary in the sphere of international finance; or c) a language other than the foregoing that is accepted by the Spanish Securities Market Commission.

3. Where securities are admitted to trading in Spain and on one or several regulated markets in other Member States of the European Union, the regulated information shall be published, depending on the choice of the issuer:

a) in one of the languages referred to in indents a), b) and c) of the foregoing paragraph; and b) in a language customary in the sphere of international finance; or in a language accepted by the competent authorities of all the host Member States where the securities are admitted to trading.

4. Where securities are admitted to trading only on one or several regulated markets in other Member States of the European Union, the regulated information shall be published, depending on the choice of the issuer:

a) in a language customary in the sphere of international finance; or b) in a language accepted by the competent authorities of all the host Member States where the securities are admitted to trading. In that event, the issuer must also publish the regulated information in an additional language, which will be, at the issuer's discretion, one of the languages referred to in indents a), b) and c) of section 2.

5. Persons under a duty to notify major holdings may give such notification only in a language customary in the sphere of international finance. An issuer receiving notifications in a language customary in the sphere of international finance is not under a duty to translate such notifications into Spanish.

6. Where securities whose denomination per unit is equal to or greater than EUR 100,000 or, in the case of debt securities denominated in a currency other than EUR, equivalent to at least EUR 100,000 at the date of the issue, are admitted to trading on one or more organised exchanges or regulated markets, regulated information shall be disclosed, at the choice of the issuer or of the person who, without the issuer's consent, has requested such admission:

a) in a language customary in the sphere of international finance; or b) in a language accepted by the Spanish Securities Market Commission and by the competent authorities of the host Member States.

The exception referred to in this section 6 applies also to debt securities the denomination per unit of which is at least EUR 50,000 or, in the case of debt securities denominated in a currency other than EUR, the value of such denomination per unit is, at the date of the issue, equivalent to at least EUR 50,000, which have already been admitted to trading on a regulated market in one or more Member States of the European Union before 31 December 2010, for as long as such debt securities are outstanding.

6. Where securities are admitted to trading on a regulated market without the issuer's consent, the obligations under paragraphs 1, 2, 3, 4 and 6 of this article shall be incumbent not upon the issuer, but upon the person who, without the issuer's consent, has requested such admission.

## TITLE I

### Periodic information

#### CHAPTER I

#### Annual financial report

##### *Article 8. Content of the annual financial report and time limit for submission*

1. Under article 35 of the Securities Market Act, issuers of securities admitted to trading on an organised exchange or other regulated market in the European Union must publish and disclose their annual financial report, which will comprise:

a) The entity's individual financial statements and management report and, as the case may be, for its consolidated group, having been reviewed by an auditor, with the scope set out in article 208 of the restated *Ley de Sociedades Anónimas* [Companies Act], enacted under Royal Legislative Decree 1564/1989 of December 1989.

b) Statements as to responsibility for the contents, which must be signed by the directors, whose names and functions shall be clearly indicated, to the effect that, to the best of their knowledge, the financial statements prepared in accordance with the applicable set of accounting standards give a true and fair view of the assets, liabilities, financial position and profit or loss of the issuer and the undertakings included in the consolidation taken as a whole and that the management report includes a fair review of the development and performance of the business and the position of the issuer and the undertakings included in the consolidation taken as a whole, together with a description of the principal risks and uncertainties that they face.

2. The time limit for publishing and disclosing the annual financial report will be 4 months from the end of the issuer's financial year, and may not exceed the date on which there is officially published the notice of the general meeting or of such organ as is competent to adopt the annual financial report.

##### *Article 9. Accounting principles applicable to the financial statements*

1. If under applicable laws and regulations the issuer is required to produce consolidated financial statements, such statements must be prepared in accordance with international financial reporting standards, as adopted under the respective regulations of the European Commission.

2. The individual financial statements must be produced in accordance with the law of the Member State where the issuer has its registered office.

##### *Article 10. Responsibility for the content and publication of the annual financial report*

1. The issuer and its directors will be responsible for the annual financial report in their capacity as persons under a duty to issue and sign the individual financial statements and management report of the entity and, as the case may be, of its consolidated group and the statement of responsibility as to their contents.

2. *Locus standi* for the action referred to in article 35 *ter* of the securities market act will attach to the holders of securities of the issuer forming the subject matter of the annual financial report who have sustained economic loss as a direct consequence of the fact that the content of such report failed to give a true and fair view of the assets, liabilities, financial position and profit or loss of the issuer and/or, as the case may be, its consolidated group.

## CHAPTER II

### **Half-yearly financial report**

#### *Article 11. Content of the half-yearly financial report and time limit for submission*

1. Under article 35 of the Securities Market Act, issuers of securities admitted to trading on an organised exchange or other regulated market in the European Union must publish and disclose a half-yearly financial report on the first six months of the financial year. In addition, issuers of securities admitted to trading on an organised exchange or other regulated market in the European Union must publish and disclose a second half-yearly report on the twelve months of the financial year. This obligation does not apply if the annual financial report has been published in the two months following the end of the reference financial year. The half-yearly financial report shall comprise:

a) The condensed individual financial statements and interim management report of the entity and, as the case may be, of its consolidated group.

b) Statements of responsibility for their content, which must be signed by the directors of the issuer, whose names and functions shall be clearly indicated, to the effect that, to the best of their knowledge, the condensed set of financial statements which has been prepared in accordance with the applicable set of accounting standards gives a true and fair view of the assets, liabilities, financial position and profit or loss of the issuer, or the undertakings included in the consolidation as a whole, and that the interim management report includes a fair review of the information required.

2. The time limit for publishing and disclosing the half-yearly report on the first six months of the financial year is three months from the end of the half year of the financial year of the issuer concerned.

The time limit for publication and disclosure of the second half-yearly report required from issuers of securities admitted to trading on an organised exchange or other regulated market in the European Union is two months from the end of the second half of the financial year of the issuer concerned.

It is to be borne in mind that this last update of section 2, introduced by final provision 2(3) of Royal Decree 878/2015 enters into force on 20 December 2015 as determined by final provision 7(3) of that statutory instrument.

Former wording: "2. The time limit for publishing and disclosing the half-yearly report is two months from the end of the half year of the financial year of the issuer concerned."

3. Without prejudice to the provisions of article 171(2) of the restated Companies Act adopted under Royal Legislative Decree 1564/1989, the secretary to the board of the issuer is responsible for verifying that the half-yearly financial report has been signed by each of the directors of the issuer and that the computer file containing that half-yearly report has been submitted to the Spanish Securities Market Commission. For this purpose the secretary must prove as before the Spanish Securities Market Commission that it has a power delegated by the board to submit the half-yearly financial report.

#### *Article 12. Accounting principles applicable to condensed financial statements*

1. If under applicable laws and regulations the issuer is required to produce condensed consolidated financial statements, such statements must be prepared in accordance with international financial reporting standards, as adopted under the respective regulations of the European Commission.

2. The individual condensed financial statements must contain those financial statements that are mandatory under the law of the Member State in which the issuer has its registered office, adapted to a condensed model form, and must be produced under the same principles of recognition and measurement as those applicable to the individual annual financial statements included in the annual financial report.

*Article 13. Minimum content of non-consolidated condensed financial statements*

1. The minimum content of the condensed set of financial statements, where that set is not prepared in accordance with international accounting standards adopted pursuant to the procedure provided for under Article 6 of Regulation (EC) No 1606/2002 on the application of international accounting standards shall be in accordance with the following sections.

2. The condensed balance sheet and the condensed profit and loss account and the rest of financial statements which the issuer is under a duty to produce in accordance with prevailing laws and regulations shall show each of the headings and subtotals included in the most recent annual financial statements of the issuer. Additional line items shall be included if, as a result of their omission, the half-yearly financial statements would give a misleading view of the assets, liabilities, financial position and profit or loss of the issuer. In addition, the following comparative information shall be included:

In relation to the half yearly report the first half-year:

a) Balance sheet as at the end of the first six months of the current financial year and comparative balance sheet as at the end of the immediate preceding financial year.

b) Profit and loss account as at the end of the first six months of the current financial year and comparative information as at the end of the immediate preceding financial year.

c) The rest of financial statements in respect of the first six months of the current financial year which in accordance with prevailing laws and regulations the issuer is under a duty to produce, with comparative information as at the end of the immediate preceding financial year.

In relation to the second half-yearly report:

a) Balance sheet as at the end of the current financial year and comparative balance sheet as at the end of the immediate preceding financial year.

b) Profit and loss account for the 12 months of the financial year, with comparative information as at the end of the immediate preceding financial year.

c) The rest of financial statements in respect of the twelve months of the financial year which in accordance with prevailing laws and regulations the issuer is under a duty to produce, with comparative information as at the end of the immediate preceding financial year.

3. The explanatory notes shall include the following:

a) sufficient information to ensure the comparability of the condensed half-yearly financial statements with the annual financial statements;

b) sufficient information and explanations to ensure a user's proper understanding of any material changes in amounts and of any developments in the half-year period concerned, which are reflected in the balance sheet and the profit and loss account.

*Article 14. Audit reporting*

1. If the half-yearly financial report has been audited on a voluntary basis, the audit report shall be

reproduced in full. Otherwise, the half-yearly financial report must contain a statement by the issuer to that effect in its report.

2. If an audit report issued on the individual financial statements of the entity or, as the case may be, its consolidated group for the previous financial year contains a qualified opinion, or the auditor's opinion is adverse or the auditor refuses to give an opinion, the issuer must seek from its auditors a special report to be attached to the following half-yearly report, containing at least the following information:

a) If the circumstances that gave rise to the qualified opinion, including a refusal of opinion or adverse opinion, no longer hold, that new fact must be stated, and a description given of the effect of the corrections made on the information for the half-year forming the subject matter of the report.

b) If the circumstances that gave rise to the qualified opinion, including a refusal of opinion or adverse opinion, continue to hold, that fact must be stated, and a description given of the effect that might arise from applying those qualifications to profit or loss and, as the case may be, the equity stated in the information on the half-year period forming the subject matter of the report.

3. The provisions of the section above will not apply if the financial statements in question have been reissued and the auditor's opinion on them is favourable.

#### *Article 15. Contents of the interim management report*

1. The interim management report shall include at least an indication of important events that have occurred in the respective financial year, and their impact on the condensed set of financial statements. Moreover, the half-yearly report on the first half must contain a description of the principal risks and uncertainties for the remaining six months of the financial year.

2. Issuers of shares must include in their interim management report major related-party transactions. They must at least include the following:

a) related parties' transactions that have taken place in the first six months of the current financial year and that have materially affected the financial position or the performance of the enterprise during that period;

b) any changes in the related parties' transactions described in the last annual report that could have a material effect on the financial position or performance of the enterprise in the first six months of the current financial year.

3. The issuer shall as to each transaction offer the information that it must offer in the financial statements. It is unnecessary for the issuer to disclose again in the interim management report those related-party transactions that it has reported in the relevant section of the half-yearly financial report if the issuer believes that no additional relevant information would be thus contributed.

4. The Minister for Economic Affairs and Finance and, with the express powers given to it, the Spanish Securities Market Commission, may determine that issuers offer additional information on related-party transactions.

#### *Article 16. Differences between the annual financial report and half-yearly and/or interim financial reporting*

1. If in the course of preparation of the financial statements for a financial year the issuer corrects material errors incurred in any half-yearly financial report or interim statement for that year, it must communicate to the Spanish Securities Market Commission the nature of the error, the circumstances giving rise to it and the amount by which the relevant regulated information was adjusted.

2. If in the course of preparation of the financial statements for a financial year the issuer corrects material errors incurred in any half-yearly financial report or interim statement for that year, it must communicate to the Spanish Securities Market Commission the nature of the error, the circumstances giving rise to it and the amount by which the relevant regulated information was adjusted.

3. The communications referred to in sections 1 and 2 of this article must be given within the ten business days following the date on which the issuer's directors release the annual financial statements, and they must incorporate the properly corrected model forms for half-yearly financial information and

interim statements formerly affected by errors or by changes in accounting principles.

4. If the directors of the issuer reissue the financial statements for a given financial year the provisions of the above sections will apply.

*Article 17. Responsibility for the content and publication of the half-yearly financial report*

1. The issuer and the directors will be responsible for the half-yearly financial report. 2. *Locus standi* for the civil action for liability will attach to the holders of securities of the issuer forming the subject matter of the half-yearly financial report who have sustained economic loss as a direct consequence of the fact that the content of such report failed to give a true and fair view of the assets, liabilities, financial position and profit or loss of the issuer and/or, as the case may be, its consolidated group.

*Article 18. Information for statistical purposes and time limit for submission*

1. For the purposes of the publication of statistics the issuer must submit to the Spanish Securities Market Commission its condensed financial statements on the respective financial year and additional selected information, without inclusion of all explanatory notes, on the same dates it publishes the first and second half-yearly financial reports. For these purposes there must be used the half-yearly financial report model form introduced by the Spanish Securities Market Commission by virtue of the power conferred on it under article 22.

2. An issuer who publishes the annual financial report in the two months following the end of the reference financial year must submit to the Spanish Securities Market Commission, for the purposes of the publication of statistics, its condensed financial statements on the twelve months of the financial year and additional selected information, without inclusion of all explanatory notes, on the same dates it publishes the annual financial report. For these purposes there must be used the half-yearly financial report model form introduced by the Spanish Securities Market Commission by virtue of the power conferred on it under article 22.

### CHAPTER III

#### **Interim reporting**

*Article 19. Issuers under an obligation and time limit for publication of interim reporting*

Without prejudice to article 82 of the Securities Market Act, issuers of securities admitted to trading on an organised exchange or other regulated market Union must publish two interim reports in the first and second halves of the financial year, respectively. These reports must be published no later than 45 days after the end date of the first and third quarter, and must contain information on the period elapsed from the beginning of the financial year to the end of each quarter.

*Article 20. Content of the interim report*

1. The interim report must contain:

- a) an explanation of material events and transactions that have taken place during the relevant period and their impact on the financial position of the issuer and its controlled undertakings, and
- b) a general description of the financial position and performance of the issuer and its controlled undertakings during the relevant period.

2. The accounting figures as to the consolidated group of the issuer stated in interim reports must be prepared in accordance with international financial reporting standards, as adopted under the respective regulations of the European Commission. The individual accounting figures as to the issuer stated in interim reports must be prepared in accordance with the same principles of recognition and measurement as those used in the preparation of the individual financial statements of the entity.

## CHAPTER IV

### **Third countries and model forms for periodic reporting**

#### *Article 21. Duties and obligations of issuers having their registered office in a non-European Union state*

1. If in accordance with article 2(2)(b) Spain is the home Member State and the issuer has its registered office in a non-European Union state, the Spanish Securities Market Commission may exempt that issuer from satisfying the requirements relating to the content of the obligations under this title, provided that the laws and regulations of the state where it has its registered office demand requirements that are equivalent to those under this Royal Decree, or if the issuer discharges the obligations imposed by the laws and regulations of a third country which the Spanish Securities Market Commission considers to be equivalent to those of Spain.

The following will be treated as equivalent requirements, inter alia:

a) in relation to the annual management report in accordance with the laws and regulations of the home country at least the following information is included:

1. An objective description of the performance and results of the business of the issuer and of its position, constituting a balanced and exhaustive analysis, consistent with the size and complexity of the business. A description must also be provided of the principal risks and uncertainties.
2. An indication of significant events after the accounting reporting date.
3. An indication of the issuer's foreseeable future performance.

a) In relation to the interim management report in accordance with the laws and regulations of the home country, in addition to condensed annual financial statements, at least the following information is included:

1. A description of business performance during the intervening period.
2. An indication of the issuer's foreseeable performance over the next six months.
3. For issuers of shares, major transactions with related parties as mentioned in article 15 (2), unless they have already been published and disclosed in a price-sensitive information report.

c) In relation to the interim statement\*, if the issuer is under an obligation in accordance with the laws and regulations of its country to publish quarterly financial reports.

d) In relation to the responsibility for the content of the annual and half-yearly financial information, if the laws and regulations of the issuer's home country require that one or more persons within the issuer assume responsibility for such information, and, in particular, for the following:

1. The compliance of the financial statements with the applicable reporting framework or set of accounting standards.
2. The fairness of the management review included in the management report.

a) In relation to the individual annual financial statements of an issuer that pursuant to the laws and regulations of its home country is not under an obligation to produce such statements, when issuing its consolidated accounts it is under the obligation to include the following information:

1. For issuers of shares, calculated dividends and ability to pay dividends.
2. For all issuers, when applicable, the minimum capital, equity and liquidity requirements.

To verify the equivalence requirements the issuer must be able to supply additional audited information on its individual accounts in relation to the earlier itemised disclosures, which information

must be produced in accordance with the laws and regulations of its home country.

f) In relation to the individual financial statements of an issuer that pursuant to the laws and regulations of its home country is not under an obligation to produce consolidated statements, if those individual financial statements are produced in accordance with the international financial reporting standards adopted pursuant to the regulations of the European Commission or to national accounting standards that are equivalent. If the standards are not equivalent, the individual accounts must be reformulated and audited.

2. At all events, the issuer must disclose the information pursuant to the standards of its home country and communicate it on the terms set out in this \*Royal Decree to the Spanish Securities Market Commission.

The information covered by the requirements laid down in the third country will be subject to the oversight and registration requirements referred to in article 6, and must be communicated and disclosed in accordance with articles 4 and 7.

3. The Spanish Securities Market Commission will inform the European Securities and Markets Authority of any exemptions granted under this article.

#### *Article 22. Power to adopt model forms relating to periodic information*

The Spanish Securities Market Commission will, in the form of a Circular, adopt periodic model forms for reporting, including condensed financial statements and the content of quarterly financial reports, in accordance with the provisions of this title and after a report issued by the Instituto de Contabilidad y Auditoría de Cuentas [Spanish Institute of Accountancy and Account Auditing].

In addition, the Spanish Securities Market Commission is empowered to implement the technical specifications relating to the form in which the regulated information forming the subject matter of this title must be sent to the central storage mechanism contemplated in article 5 of this Royal Decree.

## TITLE II

### **Information about major holdings and own shares**

#### CHAPTER I

#### **Major holdings**

##### *Article 23. Notification by a shareholder to the issuer of the acquisition or disposal of major holdings*

1. Where a shareholder acquires or disposes of shares, to which voting rights are attached, of an issuer for which Spain is the home Member State and whose shares are admitted to trading on a Spanish organised exchange or any other regulated market in the European Union, such shareholder must notify the issuer and the Spanish Securities Market Commission of the proportion of voting rights of the issuer held by the shareholder as a result of the acquisition or disposal where that proportion reaches, exceeds or falls below the thresholds of 3 %, 5 %, 10 %, 15 %, 20 %, 25 %, 30 %, 35 %, 40 %, 45 %, 50 %, 60 %, 70 %, 75 %, 80 % and 90 %.

For the purposes of this Royal Decree “shareholder” means any individual or legal person who holds, whether directly or indirectly through an entity under its/his/her control:

a) shares of the issuer in its own name and on its own account; b) shares of the issuer in its own name, but on behalf of another natural person or legal entity;

c) certificates representing shares, in which event the holder of such certificates will be the owner of the underlying shares represented by them.

“Control” has the meaning given to that term in article 4 of the Securities Market Act.

2. The voting rights shall be calculated on the basis of all the shares to which voting rights are attached even if the exercise thereof is suspended.

For the purposes of this article, the percentage of voting rights shall be calculated by reference to the total number of voting rights as last disclosed by the issuer and published on the website of the Spanish Securities Market Commission.

3. If any change occurs in the total number of voting rights held at the issuer, the shareholders must notify the issuer and the Spanish Securities Market Commission of the proportion of voting rights that reaches, exceeds or falls below the thresholds set out in section 1 of this article on the basis of the new information communicated by the issuer to the Spanish Securities Market Commission and made public.

*Article 24. Notification of the acquisition, disposal or exercise of voting rights by other persons subject to these rules other than the shareholder*

1. The notification requirements set out in the foregoing article apply also to any individual or legal person who, independently of ownership of the shares, acquires, disposes of or has the possibility of exercising the voting rights attached to such shares, provided that the proportion of voting rights reaches, exceeds or falls below the thresholds set out in article 23 (1) and is a consequence of one or more of the following acts:

a) The conclusion of an agreement with a third party that binds such person to adopt, by means of the concerted exercise of the voting rights within its possession, an enduring common policy as to the management of the company, or that is intended materially to influence the company.

The notification obligation will be collective and shared by all parties to the agreement. The obligation may be fulfilled by means of a single common notification. However, use of a single notification may not be deemed to release any of the natural persons or legal entities concerned from their responsibility in relation to notification.

b) The conclusion of an agreement with a third party that makes provision for the temporary disposal for consideration of the voting rights in question.

c) The deposit of shares as collateral, where the individual or legal entity referred to in the first paragraph of this article controls the voting rights and expressly declares its intention of exercising them.

d) Agreements to create a right of usufruct over shares. e) Agreements or legal acts among those contemplated in the foregoing indents concluded by an entity controlled by that individual or legal entity.

2. The notifications provided for in this article are also mandatory where the proportion of acquired, disposed of or held voting rights reaches, exceeds or falls below the thresholds set out in article 23 (1), for the following persons:

a) Entities providing services of management, registration and custody of securities, provided that they may discretionally exercise the voting rights that attach to the shares in the absence of specific instructions given by the shareholders.

b) The individual or legal entity holding the voting rights attributed to shares acquired or disposed of through a third party.

For the purposes of this Royal Decree such 'third party' means a person who in its own name acquires, disposes of or holds share on account of another individual or legal entity. That status will be presumed when such person is wholly or partly shielded from the risks inherent in the acquisition, disposal or possession of the shares.

c) Representatives, when they may in their own discretion exercise voting rights in the absence of specific instructions from the represented shareholders. This notification will be independent from such

notification as must be submitted, as the case may be, by the individual or legal entity that has disposed of the represented voting rights.

Prior to the holding of a general meeting and by a single notification a representative may communicate the proportion of voting rights that it is able to exercise as a result of the powers of representation that it holds, provided that such notification clearly states the resulting situation as to voting rights after the end of the general meeting.

In addition, a shareholder granting the powers of representation referred to in the foregoing paragraph may submit a single notification as from that date with an express statement of the situation resulting as to voting rights after the end of the general meeting.

d) The management companies of collective investment undertakings, in relation to the voting rights attached to the shareholders forming part of the equity of the undertakings that they control, unless they expressly waive the exercise of such rights in accordance with the *Ley 35/2003* [Collective Investment Undertakings Act] and its implementing regulations.

A "management company" means any company defined as such in the Collective Investment Undertakings Act.

e) In the event of ownership of shares, the person under the obligation under this statutory instrument is the co-owner or person designated to exercise, in his/her discretion on account of the co-owners, the voting rights attached to the shares.

*Article 25. Persons under a duty to notify in the case of groups*

1. In cases of groups of entities as defined in article 4 of the Securities Market Act, notification will not be required from entities which, being members of such a group, are persons under a duty under article 23, 24 and 26, provided that the notifications are given by the dominant entity or person.

At all events, the dominant person is under a duty to notify if any of the companies that it controls reaches, falls short of or exceeds the thresholds set out in article 23, even where the final position in terms of voting rights of the dominant person remains unaltered.

2. The provisions of the foregoing section will not apply if a controlled company is a director of a listed company, in which event, it must notify all transactions involving the shares or financial instruments of that company, in accordance with article 31 of this Royal Decree and article 9 of Royal Decree 1333/2005 of 11 November 2005 implementing the Securities Market Act in relation to market abuse.

*Article 26. Management companies and investment services companies belonging to a group*

1. The parent undertaking of a management company of collective investment undertakings shall not be required to aggregate the proportion of voting rights carried by the shares that it holds to the proportion of voting rights carried by the shares forming part of the assets of the collective investment undertakings managed by that management company, provided that the management company exercises its voting rights independently from the parent undertaking.

However, articles 23 and 24 shall apply where the parent undertaking, or another controlled undertaking of the parent undertaking, has invested in shares within the assets of the collective investment undertakings managed by the management company, and the latter has no discretion to exercise the voting rights attached to such shares and may only exercise such voting rights under direct or indirect instructions from the parent or another controlled undertaking of the parent undertaking.

2. An entity that controls an investment services firm shall not be required to aggregate the proportion of voting rights carried by the shares that it holds to the proportion which the investment services firm manages individually as a result of provision of the portfolio management service, provided that the

following conditions are satisfied:

a) The investment services firm is authorised to provide the portfolio management on the terms of article 63(1)(d) of the Securities Market Act.

b) It may only exercise the voting rights attached to such shares under instructions given in writing or by electronic means or, failing this, it ensures that individual portfolio management services are conducted independently of any other services under conditions equivalent to those provided for under the *Ley 35/2003* [Collective Investment Undertakings Act] by putting into place appropriate mechanisms; and

c) The entity exercises its voting rights independently from the parent undertaking.

However, articles 23 and 24 shall apply where the parent undertaking, or another controlled undertaking of the parent undertaking, has invested in shares within the assets managed by an investment service company of the group, and the latter has no discretion to exercise the voting rights attached to such shares and may only exercise such voting rights under direct or indirect instructions from the parent or another controlled undertaking of the parent undertaking.

*Article 27. Requirements to be satisfied by the dominant entity of a management company or investment services firm\* so as not to aggregate holdings in accordance with article 26*

1. For the purposes of article 26, any dominant entity of a management company or investment services firm must comply with the following conditions:

a) It must not interfere by giving direct or indirect instructions or in any other way in the exercise of the voting rights held by that management company or investment services firm;

b) That management company or investment services firm must be free to exercise, independently of the parent undertaking, the voting rights attached to the assets it manages.

2. To rely on the provisions of article 26, the parent of a management company of collective investment undertakings or of an investment services firm must without delay apprise the Spanish Securities Market Commission of the following information:

a) A list identifying the management companies of collective investment undertakings and investment services firms within the group and the authorities competent to supervise them, without need of making reference to each of the issuers of shares the voting rights of which are under their management. This list shall be continuously updated.

b) A statement that, in the case of each such management company or investment services firm, the parent undertaking complies with the conditions laid down in paragraph 1 of this article.

3. Where the parent undertaking intends to benefit from the exemptions only in relation to the financial instruments, it shall notify to the Spanish Securities Market Commission only the list referred to in point (a) of paragraph 2.

4. Without prejudice to the powers attributed to the Spanish Securities Market Commission under the Securities Market Act, it falls to the parent undertaking to prove, on demand by the Spanish Securities Market Commission, the following:

a) That the parent and the management company of collective investment undertakings or the investment services firm have an adequate organisational structure that ensures that the voting rights attached to the shares managed by them are exercised independently of the parent.

b) That the persons who decide on the exercise of the voting rights attached to the shares under their management act independently.

c) That there exists a clear written mandate that imposes an arms-length relationship between the parent and the management company or investment firm where the parent is a client of or has a holding in the assets managed by either of them.

The requirement in point (a) shall imply as a minimum that the parent undertaking and the management company or investment services firm must have established written policies and procedures reasonably designed to prevent the distribution of information between the parent undertaking and the management company or investment services firm in relation to the exercise of voting rights.

5. For the purposes of point (a) of paragraph 1, 'direct instruction' means any instruction given by the parent undertaking, or another controlled undertaking of the parent undertaking, specifying how the voting rights are to be exercised by the management company or investment services firm in particular cases.

'Indirect instruction' means any general or particular instruction, regardless of the form, given by the parent undertaking, or another controlled undertaking of the parent undertaking, that limits the discretion of the management company or investment services firm in relation to the exercise of the voting rights in order to serve specific business interests of the parent undertaking or another controlled undertaking of the parent undertaking.

*Article 28. Financial instruments that confer the right to acquire shares already in issue that attribute voting rights or have a similar economic effect*

1. The duty of notification applies also to any person who holds, acquires or disposes of, directly or indirectly, the following financial instruments where the proportion of voting rights reaches, exceeds or falls below the thresholds set out in article 23 (1):

a) Financial instruments that, on maturity, give the holder, under a formal agreement, either the unconditional right to acquire or the discretion as to his right to acquire, shares to which voting rights are attached, already issued, of an issuer whose shares are admitted to trading on an organised exchange or other regulated market in the European Union.

b) Financial instruments which are not included in point (a) but which are referenced to shares referred to in that point and with an economic effect similar to that of the financial instruments referred to in that point, whether or not they confer a right to a physical settlement.

For the purposes of this article 'financial instruments' means transferable securities, options, futures, swaps, forward rate agreements, contracts for differences and any other contract or agreement having similar economic effects that may be settled by physical delivery of the underlying assets or in cash, and any other such instruments as may be determined by the Minister for Economic Affairs and Competitiveness and, with expressly delegated powers, the Spanish Securities Market Commission.

A formal agreement means an agreement which is binding under the applicable law.

2. For the purposes of calculation of the number of voting rights the following rules apply:

a) The number of voting rights shall be calculated by reference to the full notional amount of shares underlying the financial instrument except where the financial instrument provides exclusively for a cash settlement, in which case the number of voting rights shall be calculated on a "delta-adjusted" basis (price sensitivity of the instrument to the price of the underlying), by multiplying the notional amount of underlying shares by the delta of the instrument.

b) The holder shall aggregate and notify all financial instruments referred to in the foregoing paragraph relating to the same underlying issuer.

c) Only long positions shall be taken into account for the calculation of voting rights. Such long positions may not be offset against short positions relating to the same underlying issuer.

3. The required notification shall include the following information:

- a) the situation resulting as to voting rights; b) if applicable, the chain of controlled undertakings through which financial instruments are effectively held;
- c) the date on which the threshold was reached or crossed; d) for instruments with an exercise period, an indication of the date or time period where shares will or can be acquired, if applicable;
- e) date of maturity or expiration of the instrument;
- f) identity of the holder; and g) name of the underlying issuer.

For the purposes of indent a), the percentage of voting rights shall be calculated by reference to the total number of voting rights and the respective capital as last disclosed by the issuer and published on the website of the Spanish Securities Market Commission.

4. The notification required shall include the breakdown by type of financial instruments held in accordance with point 1(a) and financial instruments held in accordance with point 1(b) of that subparagraph, distinguishing between the financial instruments which confer a right to a physical settlement and the financial instruments which confer a right to a cash settlement.

5. That notification must be submitted both to the Spanish Securities Market Commission and to the issuer of the underlying of the financial instrument.

If a financial instrument has more than one underlying, the person under an obligation to submit a notification must separately consider that financial instrument when producing the notification, and submit separate notification for each issuer of the underlying shares.

6. The exemptions laid down in article 33(1) through 33(4) and in articles 25 and 26 shall apply *mutatis mutandis* to the notification requirements under this article.

7. The calculations referred to in this article must be carried out in accordance with Delegated Regulation (EU) No 2015/761 of 17 December 2014.

It is to be borne in mind that this last update, introduced by final provision 2(7) of Royal Decree 878/2015 [BOE-A-2015-10637], enters into force on 27 November 2015 as determined by final provision 7(4) of that statutory instrument.

Former wording: "Article 28. Financial instruments that confer the right to acquire shares already in issue that attribute voting rights. 1. The duty of notification applies also to any person who holds, acquires or disposes of, directly or indirectly, other financial instruments that give the holder, under a formal agreement, either the unconditional right to acquire or the discretion as to his right to acquire, shares to which voting rights are attached, already issued, of an issuer whose shares are admitted to trading on an organised exchange or other regulated market in the European Union, where the proportion of voting rights reaches, exceeds or falls below the thresholds set out in article 23 (2). For these purposes 'financial instruments' means transferable securities, options, futures, swaps, forward rate agreements and any other derivative contract referred to in such statutory provisions as incorporates to Spanish law section C of Annex I of Directive 2004/39/EC of the European Parliament and of the Council of 21 April 2004 on markets in financial instruments, provided that they satisfy the requirements set out in the preceding section and any other requirements that may be determined by the Minister for Economic Affairs and Finance and, with expressly delegated powers, the Spanish Securities Market Commission. The instrument holder must enjoy, on maturity, either the unconditional right to acquire the underlying shares or the discretion as to his right to acquire such shares or not. A formal agreement means an agreement which is binding under the applicable law. 3. The holder of the financial instrument shall aggregate and notify all financial instruments referred to in the foregoing paragraph relating to the same underlying issuer. 4. The required notification shall include the following information:

- a) the situation resulting as to voting rights; b) if applicable, the chain of controlled undertakings through which financial instruments are effectively held; c) the date on which the threshold was reached or crossed; d) for instruments with an exercise period, an indication of the date or time period where shares will or can be acquired, if

applicable;

e) the maturity date of the instrument; f) the identity of the holder; and g) name of the underlying issuer.

For the purposes of indent a), the percentage of voting rights shall be calculated by reference to the total number of voting rights and the respective capital as last disclosed by the issuer and published on the website of the Spanish Securities Market Commission. 5. That notification must be submitted both to the Spanish Securities Market Commission and to the issuer of the underlying of the financial instrument. If a financial instrument has more than one underlying, the person under an obligation to submit a notification must separately consider that financial instrument when producing the notification, and submit separate notification for each issuer of the underlying shares.

#### *Article 28 bis. Notification of aggregate voting right positions*

1. The duty of notification applies also to any person who holds, acquires or disposes of, directly or indirectly, the ability to exercise the voting rights carried or attributed by shares or other financial instruments referred to in articles 23, 24 and 28, when the aggregate proportion of voting rights reaches, exceeds or falls below the thresholds set out in article 23 (1).

2. The notification required under this article shall include a breakdown of the number of voting rights attached to shares held in accordance with articles 23 and 24 and the number of voting rights referred to in article 28.

3. Voting rights that have already been notified in accordance with article 28 shall be notified again when the natural person or the legal entity has acquired the underlying shares and such acquisition results in the total number of voting rights attached to shares issued by the same issuer reaching or exceeding the thresholds laid down by article 23(1).

It is to be borne in mind that this article, introduced by final provision 2(8) of Royal Decree 878/2015 [BOE-A-2015-10637], enters into force on 27 November 2015 as determined by final provision 7(4) of that statutory instrument.

#### *Article 29. First time application to trading of the issuer's shares*

The duties and obligations set out in the foregoing articles of this title apply also when there occurs the first-time admission to trading on an organised exchange or other regulated market in the European Union of the shares of an issuer for which Spain is the home Member State.

#### *Article 30. Capital increases and voting rights charged to reserves, and other events*

1. If a listed company carries out a capital increase out of reserves, the characterisation of acquisition or disposal will apply only to the increase in the proportion of voting rights and their decrease resulting from the purchase or sale of subscription rights to that of the allotment of shares that carry voting rights.

2. For the purposes of the submission of notifications of major holdings, the persons under a duty to notify must include in their communication any acquisitions, disposals or holdings of their spouses, unless the economic settlement governing their marriage determines that ownership is separate and exclusive.

The terms of the foregoing paragraph applies also to the offspring under their parental authority of persons subject to the duty.

Separation from a spouse will be characterised as a disposal by the person subject to the duty. A disposal will also be considered to have occurred when offspring cease to be under the parental authority of the person subject to the duty.

3. If the disposal of voting rights, shares or other financial instruments takes place *mortis causa*, the notification must be submitted by the heirs, the executor or the administrator, who must also state the extinction of the voting rights of the deceased. The notification time limit will run from the trading day following the date on which the entitlement giving rise to such disposal takes effect.

4. If the disposal of voting rights, shares or other financial instruments takes place as a result of the

liquidation of the company, the notification must be submitted by the liquidators, who must also state the extinction of holding of the liquidated company. The notification period will run from the registration of the liquidation of the company in the Registro Mercantil [Companies Register].

5. If the disposal of shares, voting rights, or financial instruments takes place as a result of a company merger or de-merger, the duty to notify falls to the post-merger surviving company or resulting company. The notification period will run from the registration of the merger or de-merger in the Registro Mercantil [Companies Register].

The post-merger surviving or resulting company must write to the Spanish Securities Market Commission to identify the affected entities, indicating the date of registration of the merger or demerger in the Companies Register.

6. In the event of a public offering of shares, the shareholders of the affected company acquiring securities that carry voting rights must notify the Spanish Securities Market Commission of such acquisition if the proportion of voting rights in their possession reaches or exceeds 1%. Shareholders who already hold 3% of voting rights must notify any transaction that entails a subsequent alteration in that proportion. The content of the communications provided for in this section must be compliant with the provisions of article 34. The Spanish Securities Market Commission will disclose that information immediately.

The obligations under the foregoing paragraph will apply as from the announcement of the public takeover bid up until the settlement or withdrawal of such bid.

#### *Article 31. Notifications from directors of the issuer*

1. The directors of an issuer for which Spain is the home Member State whose shares are admitted to trading on an organised exchange or other regulated market in the European Union, in addition to the obligations under article 9 of Royal Decree 1333/2005 implementing the Securities Market Act in respect of market abuse must, independently of the proportion they represent, report the proportion of voting rights remaining in their possession after transactions for the acquisition or disposal of shares or voting rights or financial instruments conferring a right to acquire or disposal of shares that carry voting rights.

2. The duty to notify set out in the foregoing paragraph applies also upon a director's acceptance of appointment or cessation from office. The duty applies also when there occurs the first-time admission to trading on an organised exchange or other regulated market in the European Union of the shares of an issuer for which Spain is the home Member State.

3. In the specific case of the duty of directors to notify transactions involving financial instruments or derivatives the underlying of which are shares of the issuer at which they hold office, including remuneration systems based on the delivery of shares, the required notification must include the following information:

a) Type of option rights acquired or disposed of. b) Title by virtue of which the option rights are acquired and, in the case of alienation, title by virtue of which the transferred rights are held.

c) Description of the share underlying the option, specifying, for these purposes, both the value of the shares at the initial moment and the exercise price.

d) Time limit for the exercise of the option.

e) Rules governing disposal, if applicable. f) Premium, as the case may be, disbursed to acquire the option or any other form of consideration.

g) Any financing for the acquisition of the options granted by the issuer and, as the case may be, any security or coverage for the benefit of the holder of the options that would contingently have been granted by that entity in relation to the exercise or cancellation of the options.

h) Number of options acquired or sold and option rights held by the acquirer or seller after the acquisition or sale.

i) Estimate based on the data existing at the date of the notification of the number of shares and the number of voting rights that would result from the exercise of the option rights by the person giving the notification.

*Article 32. Persons under a duty to notify that are resident in a tax haven or in a nil tax country or territory or a country or territory with which no effective exchange of tax information is in place*

The thresholds set out in article 23 will be replaced by a percentage of 1% and its successive multiples when the person under a duty to notify by virtue of the above articles is resident in a tax haven or in a nil tax country or territory or a country or territory with which no effective exchange of tax information is in place in accordance with prevailing laws and regulations.

*Article 33. Exceptions to the obligation to notify major holdings*

The obligation to notify under this Title will not apply:

1. Shares acquired exclusively for the purposes of clearing and settling within the usual short settlement cycle.

For these purposes the maximum length of the usual short settlement cycle shall be three trading days following the transaction and will apply to transactions on an organised exchange or another regulated market and to transactions outside such markets. The same principles will apply also to transactions involving financial instruments.

2. To entities holding shares in their capacity as financial intermediaries providing the service of securities management and custody, provided that they only may exercise the voting rights inherent in those shares based on instructions given in writing or electronically.

'Electronic means' are means of electronic equipment for the processing (including digital compression), storage and transmission of data, employing wires, radio, optical technologies, or any other electromagnetic means.

The Spanish Securities Market Commission may at any time demand from the financial intermediary the identity of the person giving the instructions.

3. Upon the acquisition or disposal of a major holding reaching or crossing the 3 % threshold or 5% by a market maker acting in its capacity of a market maker, provided that:

a) That party qualifies as such by virtue of the statutory provisions that incorporate to Spanish law Directive 2004/39/EC of the European Parliament and of the Council of 21 April 2004 on markets in financial instruments.

b) It neither intervenes in the management of the issuer concerned nor exerts any influence on the issuer to buy such shares or back the share price in any other way.

'Market maker' means a person who holds himself out on the financial markets on a continuous basis

as being willing to deal on own account by buying and selling financial instruments against his proprietary capital at prices defined by him.

The market maker seeking to benefit from the exemption shall notify to the Spanish Securities Market Commission within the time limit laid down in article 35 that it conducts or intends to conduct market making activities on a particular issuer.

Where the market maker ceases to conduct market making activities on the issuer concerned, it shall notify the Spanish Securities Market Commission accordingly.

Without prejudice to the powers conferred on the Spanish Securities Market Commission under the Securities Market Act, if the Spanish Securities Market Commission requests the market maker seeking to benefit from the exemption to identify the shares or financial instruments held for market making activity purposes, that market maker shall be allowed to make such identification by any verifiable means. Only if the market maker is not able to identify the shares or financial instruments concerned, he may be required to hold them in a separate account for the purposes of that identification.

If a market-making agreement between the market maker and the stock exchange and/or the issuer is required, the market maker shall upon request of the Spanish Securities Market Commission provide the agreement to such authority.

The exemption from notification applies only to major holdings reaching or crossing the thresholds of 3% and 5%. The exemption will not apply if other thresholds set out in article 23 are reached or crossed, and the respective notification must be submitted to the Spanish Securities Market Commission and to the issuer.

4. The voting rights held in the trading books as defined in article 4(1)(86) of Regulation (EU) No 575/2013 of the European Parliament and of the Council of 26 June 2013 on prudential requirements for credit institutions and investment firms and amending Regulation (EU) No 648/2012 of 4 July 2012, provided that:

- a) voting rights held in the trading book do not exceed 5%, and
- b) the voting rights attached to shares held in the trading book are not exercised or otherwise used to intervene in the management of the issuer.

5. Voting rights attached to shares acquired for stabilisation purposes in accordance with Commission Regulation (EC) No 2273/2003 of 22 December 2003 implementing Directive 2003/6/EC of the European Parliament and of the Council as regards exemptions for buy-back programmes and stabilisation of financial instruments, provided the voting rights attached to those shares are not exercised or otherwise used to intervene in the management of the issuer.

6. The calculation of the percentages under paragraphs 3 and 4 of this article must be conducted in accordance with Commission Regulation (EU) No 2015/761 of 17 December 2014 implementing Directive 2004/109/EC of the European Parliament and of the Council as regards certain regulatory technical standards on major holdings.

7. The obligations under articles 23 and 24(c) shall not apply to shares provided to or by the members of the ESCB in carrying out their functions as monetary authorities, including shares provided to or by members of the ESCB under a pledge or repurchase or similar agreement for liquidity granted for monetary policy purposes or within a payment system.

The exemption shall apply to the above transactions lasting for a short period and provided that the voting rights attaching to such shares are not exercised.

It is to be borne in mind that the addition of paragraphs 4, 5 and 6 and the renumbering of the former paragraph 4 as

number 7, introduced by final provision 2(9) of Royal Decree 878/2015 [BOE-A-2015-10637], enters into force on 27 November 2015 as determined by final provision 7(4) of that statutory instrument.

Former wording: "Article 33. Exceptions to the obligation to notify major holdings The obligation to notify under this Title will not apply:

1. Shares acquired exclusively for the purposes of clearing and settling within the usual short settlement cycle. For these purposes the maximum length of the usual short settlement cycle shall be three trading days following the transaction and will apply to transactions on an organised exchange or another regulated market and to transactions outside such markets. The same principles will apply also to transactions involving financial instruments. 2. To entities holding shares in their capacity as financial intermediaries providing the service of securities management and custody, provided that they only may exercise the voting rights inherent in those shares based on instructions given in writing or electronically. 'Electronic means' are means of electronic equipment for the processing (including digital compression), storage and transmission of data, employing wires, radio, optical technologies, or any other electromagnetic means. The Spanish Securities Market Commission may at any time demand from the financial intermediary the identity of the person giving the instructions. 3. Upon the acquisition or disposal of a major holding reaching or crossing the 3 % threshold or 5% by a market maker acting in its capacity of a market maker, provided that:

a) That party qualifies as such by virtue of the statutory provisions that incorporate to Spanish law Directive 2004/39/EC of the European Parliament and of the Council of 21 April 2004 on markets in financial instruments; b) it neither intervenes in the management of the issuer concerned nor exerts any influence on the issuer to buy such shares or back the share price in any other way.

'Market maker' means a person who holds himself out on the financial markets on a continuous basis as being willing to deal on own account by buying and selling financial instruments against his proprietary capital at prices defined by him. The market maker seeking to benefit from the exemption shall notify to the Spanish Securities Market Commission within the time limit laid down in article 35 that it conducts or intends to conduct market making activities on a particular issuer. Where the market maker ceases to conduct market making activities on the issuer concerned, it shall notify the Spanish Securities Market Commission accordingly. Without prejudice to the powers conferred on the Spanish Securities Market Commission under the Securities Market Act, if the Spanish Securities Market Commission requests the market maker seeking to benefit from the exemption to identify the shares or financial instruments held for market making activity purposes, that market maker shall be allowed to make such identification by any verifiable means. Only if the market maker is not able to identify the shares or financial instruments concerned, he may be required to hold them in a separate account for the purposes of that identification. If a market-making agreement between the market maker and the stock exchange and/or the issuer is required, the market maker shall upon request of the Spanish Securities Market Commission provide the agreement to such authority. The exemption from notification applies only to major holdings reaching or crossing the thresholds of 3% and 5%. The exemption will not apply if other thresholds set out in article 23 are reached or crossed, and the respective notification must be submitted to the Spanish Securities Market Commission and to the issuer. 4. The obligations under articles 23 and 24(c) shall not apply to shares provided to or by the members of the ESCB in carrying out their functions as monetary authorities, including shares provided to or by members of the ESCB under a pledge or repurchase or similar agreement for liquidity granted for monetary policy purposes or within a payment system. The exemption shall apply to the above transactions lasting for a short period and provided that the voting rights attaching to such shares are not exercised."

*Article 34. Content of the notification of major holdings*

1. The notification required under articles 23, 24, 27 and 29 shall include the following information:

a) the identity of the issuer with whom the holding is concerned; b) the event that in accordance with this Royal Decree gives rise to the obligation to give a notification.

c) the resulting situation in terms of voting rights; d) the chain of controlled undertakings through which voting rights are effectively held, if applicable. The notification shall include the company names of the entities, the number of voting rights and the percentage held by each entity, provided that considered individually they hold 3% or more.

e) The date on which the threshold was reached or crossed. f) The identity of the shareholder, even if that shareholder is not entitled to exercise voting rights under the conditions laid down in article 24, and of the natural person or legal entity entitled to exercise voting rights on behalf of that shareholder.

2. In addition, the notification referred to in the preceding paragraph must include the proportion of voting rights in an itemised form with respect to each category of shares that carry voting rights.

*Article 35. Time limits for the notification of major holdings*

1. The notification to the issuer and to the Spanish Securities Market Commission shall be effected promptly, but not later than four trading days after the date on which the person subject to the obligation does or ought to become aware of the circumstances giving rise to the obligation to notify in accordance with the following rules under this article.

For the purposes of this section, it will be understood that persons under an obligation to give a notification must learn of the acquisition or disposal or of the possibility of exercising voting rights within the two trading days following the transaction, regardless of the date on which the acquisition, disposal or possibility of exercising voting rights takes effect.

It is to be borne in mind that this last update of section 1, introduced by final provision 2(10) of Royal Decree 878/2015 [BOE-A-2015-10637], enters into force on 27 November 2015 as determined by final provision 7(4) of that statutory instrument.

Former wording: "1. The notification to the issuer and to the Spanish Securities Market Commission shall be effected not later than four trading days after the date on which the person subject to the obligation does or ought to become aware of the acquisition or disposal of the shares or the possibility of exercising the respective voting rights. For the purposes of this section, it will be understood that persons under an obligation to give a notification must learn of the acquisition or disposal or of the possibility of exercising voting rights within the two trading days following the transaction."

2. If the obligation arises as a result of a change in the total number of the issuer's voting rights, it will be understood that the person subject to the obligation became aware of that fact as from the date on which the information was published on the website of the Spanish Securities Market Commission.

3. If the notification obligation arises from the appointment of directors, the obligation begins to run on the trading day following acceptance of office.

4. In the case of subscription for shares by reason of an increase in capital or the acquisition of shares through conversion, the time limit contemplated in this article will begin to run on the trading day following the date of entry in the Companies Register.

5. If the acquisition or disposal arises for any reason other than trading on an organised exchange, the notification time limit will run from the trading day following the date on which the entitlement giving rise to such acquisition or disposal takes effect.

6. If the duty of notification arises from first-time admission to trading on a Spanish organised exchange, the notification time limit will start to run on the trading day following the admission to trading of the shares.

7. The time limits for submission of the notification will be calculated in accordance with the calendar of trading days prevailing on organised exchanges. For this purpose, the Spanish Securities Market Commission will annually publish on its website the applicable calendar of trading days.

8. The notification time limits indicated above will apply also to transactions involving the financial instruments referred to in article 28 (1) and to the duty to report aggregate voting right positions under article 28 *bis*.

It is to be borne in mind that this last update of section 8, introduced by final provision 2(11) of Royal Decree 878/2015 [BOE-A-2015-10637], enters into force on 27 November 2015 as determined by final provision 7(4) of that statutory instrument.

Former wording: "8. The notification time limits set out above will apply also to transactions with financial instruments conferring a right to acquire shares."

9. In relation to the obligation under article 31, the time limit for notification by directors will be determined will be the one determined in article 9 of Royal Decree 1333/2005 implementing the Securities Market Act in relation to market abuse.

#### *Article 36. Intraday transactions and threshold crossovers during the notification period*

1. For the purposes of the foregoing articles, to determine whether the notification thresholds have been reached, exceeded or fallen short of, there must be aggregated all transactions of disposal and acquisition concluded in the same day, such that the increase or decrease in the proportion of voting rights remaining in the possession of the person under the duty is to be treated as a single acquisition or disposal.

2. The provisions of the foregoing section will not apply to the directors of listed companies, who must report each and every one of the transactions they conclude on one and the same day.

#### *Article 37. Entry of information on major holdings in the public registers of the Spanish Securities Market Commission*

1. After receiving the notification, the Spanish Securities Market Commission will enter the resulting information in the regulated information register provided for in article 92 of the Securities Market Act.

2. The Spanish Securities Market Commission may on its own motion enter in that register records relating to reportable facts of which it becomes aware in the framework of its powers of investigation and supervision.

#### *Article 38. Publication of major holdings and debt securities of the issuer*

1. The Spanish Securities Market Commission will publish the information on major holdings through the regulated information register referred to in article 92 of the Securities Market Act no later than three trading days from receipt of the notification from the person subject to the duty. It is unnecessary for issuers to send that information to the Spanish Securities Market Commission.

2. For the purposes of article 23(3), the issuer must submit to the Spanish Securities Market

Commission any change in the number of voting rights and share capital no later than the last trading day of the month in which an increase or decrease in capital or number of voting rights occurred.

*Article 39. Power to adopt model forms for the disclosure of major holdings*

The Spanish Securities Market Commission has a power to adopt model forms for the disclosure of major holdings and to implement the technical specifications required for the application of the provisions of this Chapter.

CHAPTER II

**Information on own shares**

*Article 40. Duty of disclosure and person subject to the duty to disclose own shares*

1. An issuer of shares admitted to trading on an organised exchange or other regulated market in the European Union, for which Spain is the home Member State, must notify the Spanish Securities Market Commission of the proportion of voting rights that remains in its possession in accordance with the following article when it acquires own shares that attribute voting rights, whether in a single act or successive acts, and whether on its own account or through a controlled entity or a third party, where that acquisition reaches or exceeds 1% of voting rights. The issuer will have a maximum term of four trading days from such acquisition to give such notice.

In the event of acquisition by means of successive acts the obligation to disclose arises when there is concluded the transaction or acquisition which, when added to those concluded since the previous notification, determines that, as a whole, the percentage is exceeded of 1% of the issuer's voting rights. For these purposes, sales or disposals will not be deducted.

2. The proportion will be calculated on the basis of the total number of shares carrying voting rights, even if the exercise of such rights is suspended, and in accordance with the most recent publication released by the issuer and published on the website of the Spanish Securities Market Commission.

3. For the purposes of this article the status of third party will not be attributed to such entities as, acting as the issuer's counterparty, conclude transactions the specific purpose of which is to hedge the market risk of a share option scheme granted by the issuer to its directors or employees and take the form of financial instruments that are only cash-settled.

*Article 41. Content of the notification of own shares*

The notification required under the foregoing article must contain the following information:

a) the identity of the issuer acquiring or disposing of its own shares; b) if the acquisition or disposal is carried out through other persons, the identity of those persons;

c) Independently of the fact that the duty to notify is determined in relation to acquisitions, the identification of all transactions entered into, both of acquisition and of disposal, and the price at which such transactions were concluded.

d) The resulting situation in terms of shares, voting rights and percentage.

*Article 42. Entry of information on own shares in the public registers of the Spanish Securities Market Commission*

1. After receiving the notification, the Spanish Securities Market Commission will enter the resulting information in the regulated information register provided for in article 92 of the Securities Market Act.

2. The Spanish Securities Market Commission may on its own motion enter in that register records relating to reportable facts of which it becomes aware in the framework of its powers of investigation and supervision.

*Article 43. Power to adopt model forms for disclosures concerning own shares*

The Spanish Securities Market Commission shall adopt, by means of a Circular, the model forms for the disclosure of own shares and the necessary technical specifications required for the application of the provisions of this Chapter.

### CHAPTER III

#### **Non-member countries**

*Article 44. Duties and obligations of issuers having their registered office in a non-European Union state and for which Spain is the home Member State*

1. If in accordance with article 2(1)(b) Spain is the home Member State and the issuer has its registered office in a non-European Union state, the Spanish Securities Market Commission may exempt that issuer from satisfying the requirements relating to the content of the obligations under this title, provided that the laws and regulations of the state where it has its registered office demand requirements that are equivalent to those under this Royal Decree, or if the issuer fulfils the requirements imposed by the laws and regulations of a third country which the Spanish Securities Market Commission considers to be equivalent to those of Spain.

2. A third country shall be deemed to set requirements equivalent to those set out in articles 35 and 38(1) where, under the law of that country, the time limit within which an issuer whose registered office is in that country must receive notifications on major holdings and disclose to the public their content is seven trading days.

3. A third country shall be deemed to set requirements equivalent to those set out in article 40 where, under the law of that country, an issuer whose registered office is in that third country is required to comply with the following conditions:

a) in the case of an issuer allowed to hold up to a maximum of 5 % of its own shares to which voting rights are attached, it must make a notification whenever that threshold is reached or crossed;

b) in the case of an issuer allowed to hold up to a maximum of between 5 % and 10 % of its own shares to which voting rights are attached, it must make a notification whenever a 5 % threshold or that maximum threshold is reached or crossed;

c) in the case of an issuer allowed to hold more than 10 % of its own shares to which voting rights are attached, it must make a notification whenever the 5 % threshold or the 10 % threshold is reached or crossed.

For the purposes of equivalence, notification above the 10 % threshold need not be required.

4. A third country shall be deemed to set requirements equivalent to those set out in article 38 where, under the law of that country, an issuer whose registered office is in that third country is required to disclose to the public the total number of voting rights and capital within 30 calendar days after an

increase or decrease of such total number has occurred.

5. A third country shall be deemed to set requirements equivalent to those set out in articles 26 and 27 where, under the law of that country, management companies or investment firms are required to comply with the following conditions:

a) The management company or investment services firm must be, in any situation, free to exercise, independently of the parent undertaking, the voting rights attached to the assets it manages.

b) The management company or investment services firm must disregard the interests of the parent undertaking or of any other controlled undertaking of the parent undertaking whenever conflicts of interest arise.

In addition, the parent must comply with the notification conditions set out in article 27(2)(a).

In addition, it shall make a statement that, in the case of each management company or investment firm concerned, the parent undertaking complies with the conditions laid down in this section.

Without prejudice to the powers attributed to the Spanish Securities Market Commission, when so requested the parent undertaking must be able to prove to the Spanish Securities Market Commission that it complies with the requirements set out in articles 26 and 27.

6. At all events, the issuer must disclose the information pursuant to the standards of its home country and communicate it on the terms set out in this Royal Decree to the Spanish Securities Market Commission.

The information covered by the requirements laid down in the third country will be subject to the oversight and registration requirements referred to in article 6, and must be communicated and disclosed in accordance with articles 37, 38 and 42.

### TITLE III

#### **Other reporting obligations**

*Article 45. Reporting requirements for issuers of shares and debt securities admitted to trading on a Spanish organised exchange or other regulated market in the European Union*

1. Issuers whose shares or debt securities are admitted to trading on an organised exchange or other regulated market in the European Union shall ensure that all the facilities and information necessary to enable the holders of such securities to exercise their rights are available in Spain when it is the home Member State and that the integrity of data is preserved. The provisions of this section will not apply to debt securities issued by the Member States of the European Union, the Comunidades Autónomas [Autonomous Communities, or devolved regions of Spain], local authorities and the rest of analogous entities of the Member States.

2. For issuers of shares listed on an organised exchange, the obligation set out in the foregoing section will be understood to have been discharged by the application of the provisions of article 117 of the Securities Market Act and its implementing regulations.

3. For the rest of issuers, the obligation under section 1 will be understood to have been discharged if such issuers provide, over their website or another medium of information assuring equal access to information for all holders of securities, the information required under sections 4(1)(f), 4(1)(i) and 4(1)(j) of Order ECO/3722/2003 of 26 December 2003 on annual corporate governance reports and other information instruments of listed companies and other entities.

4. The issuer will designate a financial institution for holders of securities to exercise their economic rights.

5. If the issuer of shares or debt securities, or the financial institution designated as agent for the exercise of economic rights, is under an obligation to send information to the holders of securities, the general meeting or assembly of holders of debt securities may resolve that such disclosure be done by an electronic medium, provided that the following conditions are satisfied:

a) the principle of equal treatment is abided by; b) appropriate mechanisms are put in place for the identification of holders.

However, the issuer must send the information in writing whenever the holder has not given his/her consent to receipt via electronic media. Such consent may be revoked at any time.

6. If only holders of debt securities whose denomination per unit amounts to at least EUR 100,000 or, in the case of debt securities denominated in a currency other than Euro whose denomination per unit is, at the date of the issue, equivalent to at least EUR 100,000, are to be invited to a meeting, the issuer may choose as venue any Member State of the European Union, provided that all the facilities and information necessary to enable such holders to exercise their rights are made available in that Member State.

The election referred to in the foregoing paragraph applies also to holders of debt securities the denomination per unit of which is at least EUR 50,000 or, in the case of debt securities denominated in a currency other than EUR, the value of such denomination per unit is, at the date of the issue, equivalent to at least EUR 50,000, which have already been admitted to trading on a regulated market in the European Union before 31 December 2010, for as long as such debt securities are outstanding, provided that all the facilities and information necessary to enable such holders to exercise their rights are made available in that Member State.

*Article 46. Information requirements for issuers of shares and debt securities are admitted to trading in third countries*

1. The Spanish Securities Market Commission may exempt an issuer having its registered office in a third country from compliance with the obligations under the preceding article if it believes that the laws and regulations of that country impose on the issuer equivalent requirements, or if that issuer complies with the requirements under those laws and regulations which the Spanish Securities Market Commission regards as equivalent.

2. In particular, a third country shall be deemed to set equivalent requirements as far as the content of the information about meetings of shareholders or bondholders is concerned, where, under the law of that country, an issuer whose registered office is in that third country is required to provide at least information on the place, time and agenda of meetings.

*Article 47. Disclosure of remuneration systems for directors and executives*

1. For the purposes of application of the rules on publicity of price-sensitive information, the executives of companies whose shares are admitted to trading on a Spanish organised exchange or on another regulated market in the European Union must notify the Spanish Securities Market Commission, whether directly or through the company, of the grant for their benefit of any remuneration system that involves the delivery of shares of the company where they hold office or of option rights over such shares, or the settlement of which is tied to the performance of the price of such shares, and of any subsequent alteration of those remuneration systems.

For these purposes, 'executive' has the meaning given in article 9(2) of Royal Decree 1333/2005 implementing the Securities Market Act in relation to market abuse.

2. The disclosure duties set out in the foregoing section will apply also to the directors of companies whose shares are admitted to trading on a Spanish organised exchange or another regulated market in the European Union who are the beneficiaries of remuneration systems analogous to those described.

3. If the remuneration system entails the delivery of shares or option rights over such shares, the disclosure must contain the information referred to in article 31 (3), adapted to the facts that are known on the date of granting of the respective system for the benefit of its beneficiaries. In the remaining remuneration systems, the price-sensitive information report must disclose the terms and conditions put in place for a person to be a claim-holder or final participant of the systems, and the declarants' percent participation in such systems.

At all events, such disclosures must be made no later than 4 trading days as from the time of granting of such remuneration systems for the benefit of their beneficiaries.

4. The Spanish Securities Market Commission is given a power to adopt model forms for the disclosure of the remuneration systems referred to in this article.

*Additional provision one. Time limit for the disclosure of directors' and executives' transactions*

For the purposes of the notification referred to in article 9(4) of Royal Decree 1333/2005 of 11 November 2005 on market abuse, 'business days' will mean trading days within the meaning of article 35(7).

*Additional provision two. Special regime for the Sociedad Estatal de Participaciones Industriales [state corporation for industrial holdings]*

The content of the information to be laid before the Cortes Generales [Spanish national parliament] in accordance with article 16(2) of the *Ley 5/1996* (statute creating certain entities under public law) by the Sociedad Estatal de Participaciones Industriales and its member companies, in accordance with and as an implementation of article 35(7)(e) of the Securities Market Act, is subject to the following special conditions:

1. The accounting figures relating to the consolidated group must be produced in accordance with additional provision to of *Ley 16/2007* (a statute on the reform and adaptation of company law in the field of accounting for its international harmonisation in line with European Union law).

2. The summary of the financial statements to be included in the first half-yearly financial report must comprise:

a) Balance sheet as at the end of the first six months of the current financial year and comparative balance sheet as at the end of the immediate preceding financial year.

b) Profit and loss account as at the end of the first six months of the current financial year and comparative information as at the end of the immediate preceding financial year.

b) The explanatory notes must include sufficient information to ensure the comparability of the condensed half-yearly financial statements with the annual financial statements and to ensure a user's proper understanding of any material changes in amounts and of any developments in the half-year period concerned, which are reflected in the balance sheet and the profit and loss account.

3. The summary of the financial statements to be included in the second half-yearly financial report must comprise:

a) Balance sheet as at the end of the current financial year and comparative balance sheet as at the end of the immediate preceding financial year.

b) Profit and loss account for the 12 months of the financial year, with comparative information as at the end of the immediate preceding financial year.

b) The explanatory notes must include sufficient information to ensure the comparability of the condensed half-yearly financial statements with the annual financial statements and to ensure a user's

proper understanding of any material changes in amounts and of any developments in the half-year period concerned, which are reflected in the balance sheet and the profit and loss account.

4. The interim management report shall include an indication of important events that have occurred in the respective financial year, and their impact on the condensed set of financial statements. Moreover, the half-yearly report on the first half must contain a description of the principal risks and uncertainties for the remaining six months of the financial year.

5. Statements of responsibility for the content of the half-yearly financial reports must be signed by the chairman of the board or by the sole director of the company.

#### *Single transitional provision. Adaptation of the information on major holdings*

1. The Spanish Securities Market Commission is given a power to make the necessary technical changes for the information contained in official records on the percentage holdings of major shareholders and directors in the capital of a listed company sent before the entry into force of this Royal Decree to be treated as voting rights percentages.

2. However, if any of the major shareholders or directors referred to in the foregoing section cease to be persons under the relevant obligation as defined in Title II, they must submit a written notice to the Spanish Securities Market Commission indicating this fact so that the Commission can remove them from official records.

3. Any natural or legal person who in accordance with this Royal Decree is under a duty to notify, but not under a duty to notify under Royal Decree 377/1991 of 15 March 1991 on the disclosure of major holdings in listed companies and acquisition by listed companies of own shares, will have a term of 15 days as from the entry into force of this Royal Decree to notify the Spanish Securities Market Commission of the percentage of voting rights they hold in accordance with the model forms for notification adopted for those purposes. In particular, notification must be given by:

a) persons subject to the duty having a proportion of voting rights equal to or greater than 3% and less than 5%;

b) persons subject to the duty of the application of article 28; c) persons subject to the duty attracting the application of article 24(1)(a).

4. For as long as the model forms for notification under articles 39 and 43 are not adopted under a Circular of the Spanish Securities Market Commission, disclosures of major holdings and own shares of issuers must be given using the model forms adopted under Royal Decree 377/1991 of 50 March 1991 on the disclosure of major holdings in listed companies and acquisition by listed companies of own shares.

#### **Sole repealing provision. Repeal**

Royal Decree 377/1991 of 15 March 1991 on the notification of major holdings in listed companies and acquisitions by listed companies of own shares, the Ministerial Order of 18 January 1991 on periodic public information disclosed by issuers of securities admitted to trading on organised exchanges, and the Ministerial Order of 23 April 1991, implementing Royal Decree 377/1991 of 15 March 1991 on the notification of major holdings in listed companies and acquisitions by listed companies of own shares, and any statutory instruments having an equal or lower rank that are inconsistent with this Royal Decree.

#### **Final provision one. Power to make delegated legislation**

This Royal Decree is issued in the exercise of the powers conferred by article 149(1)(6)(a), (11)(a) and (13)(a) of the Spanish Constitution [*Constitución Española*].

*Final provision two. Incorporation of European Union law*

This Royal Decree completes the incorporation to Spanish law of Directive 2004/109/EC of the European Parliament and of the Council of 15 December 2004 on the harmonisation of transparency requirements in relation to information about issuers whose securities are admitted to trading on a regulated market and amending Directive 2001/34/EC.

In addition, it fully incorporates to Spanish law Commission Directive 2007/14/EC of 8 March 2007 laying down detailed rules for the implementation of certain provisions of Directive 2004/109/EC of 15 December 2004 on the harmonisation of transparency requirements in relation to information about issuers whose securities are admitted to trading on a regulated market.

**Final provision three. Entry into force**

This Royal Decree shall come into force two months following its publication in the *Boletín Oficial del Estado* [Spanish central government gazette].

However, the provisions of article 8 of the annual financial report will enter into force in relation to financial statements in respect of financial years beginning on or after 1 January 2007, inclusive.

The provisions under Title I on half-yearly financial reports and interim statements will enter into force in relation to information referring to periods beginning on or after 1 January 2008.

Done at Madrid, this 19 October 2007.

JUAN CARLOS R.

The Second Vice President of the Government and Minister for Economic Affairs and Finance, PEDRO SOLBES  
MIRA

This consolidated text does not have legal force. For further information, write to [info@boe.es](mailto:info@boe.es)