

The background of the slide is a dark green field filled with various financial data visualizations. At the top, there are candlestick charts for currencies like ITL, DEM, BEF, FRF, MLG, and RUS, with price changes such as -0.44, -31.26, +0.16, -0.01%, +0.04, and -0.03% respectively. Below these, a world map is overlaid with a grid. Further down, more candlestick charts are visible for JPY, EUR, CHF, GBR, SEK, and CAD, with values like +12%, -22%, -0.4, -26.23, -0.16, and -16.22. At the bottom, there are line charts and bar charts for currencies like RMY (18.68 - 0.7%) and DTR (31.48 - 0.0%).

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GLOBAL PUBLIC COMPANY ACADEMY

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Continuing Obligations of EU Listed Companies

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Section 2: Overview of EU-wide regime

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Section 4: Transparency Directive

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SECTION 1

INTRODUCTION

Sources of continuing obligations of EU listed companies

Companies listed in the EU are subject to continuing obligations imposed by:

- the relevant stock exchange (e.g., listing rules)
- EU regulations
- Securities laws and other laws and regulations in the jurisdiction of the listing, some of which implement EU directives (such as the Prospectus Directive and Transparency Directive) into local country law
- Company law in the jurisdiction of incorporation
- Takeover rules in the jurisdiction of incorporation

Sources of continuing obligations of EU listed companies

Obligations vary depending on:

- Jurisdiction in which listing is located
- Jurisdiction in which issuer is incorporated (including whether EU or non-EU)
- Type of market/stock exchange on which the securities are listed
- Type of listing (e.g. premium or standard listing in UK)
- Type of security that is listed (i.e., equity, debt, etc.)

Scope of today's webinar

Focus on obligations applicable across the EU

- MAR
- Transparency Directive
- Prospectus and takeover regimes being covered by other webinars in series

Local country rules and super-equivalence

SECTION 2

OVERVIEW OF EU-WIDE REGIME

EU-wide framework

Financial Services Action Plan (introduced in 1999)

- Goal of harmonisation across the EU in relation to financial services legislation
- Provides for a common set of rules and standards in relation to certain aspects of the regulation of companies with securities listed in the EU

Areas covered by EU-wide framework

- Prospectuses
- Disclosure obligations of listed companies
- Disclosures of certain dealings in listed securities
- Insider dealing and market abuse
- Takeovers

Areas not part of EU-wide framework

- General company law (though NB some harmonisation, e.g. accounts)
 - Corporate governance regimes
- Local securities laws
- Stock exchange rules

EU-wide framework

- **EU Regulations have direct effect in EU jurisdictions**
- **Directives require separate implementation in each member state**
 - Discrepancies in application across member states
 - Directives being replaced with regulations (e.g. MAR, Prospectus Regulation)
- **ESMA (European Securities and Markets Authority)**
- **Differing scope of application**
 - Type of market: EU regulated markets, MTFs (e.g. AIM), etc.
 - Type of security: equity or debt
- **Other differences still remain across member states**
 - Super-equivalence: higher standards on a voluntary or national basis, e.g. premium listing in the UK
 - Local company laws and local securities laws

Determining applicable jurisdiction

- **Necessary to determine which EEA member state has primary jurisdiction**
- **For these purposes, it may be necessary to determine the home member state of an issuer**
- **EU or EEA?**

Key EU regulations and directives

Market Abuse Regulation (known as “MAR”)

- Regulates use and disclosure of inside information
- Prohibits insider dealing and market manipulation

Transparency Directive

- Financial and other information disclosure obligations of public companies listed on a regulated market in an EU member state
- Disclosure of dealings by certain third parties

Prospectus Directive/Prospectus Regulation

- When a prospectus is required to be approved and published and content requirements

Takeover Directive

- Basic principles for takeovers of public companies listed on an regulated market in a EU member state with a view to creating a level playing field

SECTION 3

MARKET ABUSE REGULATION

Market Abuse Regulation

- Regulation No. 596/2014 of 16 April 2014
- Effective July 2016
- Replaced the EU Market Abuse Directive (MAD)
- Applies to, among other things, financial instruments:
 - Traded on an EU regulated market OR
 - Traded on a multilateral trading facility (MTF) or an organised trading facility (OTF)
- Market Abuse Directive only applied to financial instruments admitted to trading on EU regulated markets

Market Abuse Regulation – General prohibitions

***Market abuse:* Unlawful behaviour on the financial markets, which comprises:**

- Unlawful disclosure of inside information: Disclosing inside information other than in the normal course of employment, profession or duties
- Insider dealing: Using inside information by acquiring securities to which the information relates (obtaining an unfair advantage)
- Market manipulation: Behaviours that give false or misleading signals about supply, demand or price of a security
 - Share repurchase safe harbour: Disclosure and reporting requirements and price and volume limits
 - Stabilisation safe harbour: Disclosure, price and time limits

Market Abuse Regulation – Inside information

- *Inside Information*: Information of a precise nature, which has not been made public, relating, directly or indirectly, to the issuer or its securities, which, if it were made public, would be likely to have a significant effect on the price of the issuer's securities
- Disclosure regime
 - Issuer must inform the public as soon as possible of inside information that directly concerns that issuer
 - Public disclosure of inside information must be clearly identified as such
 - Limited exceptions for permissible delayed disclosure (similar to MAD)
 - To protect the issuer's "legitimate interests," provided that the delay is unlikely to mislead the public and confidentiality can be maintained
 - Must inform the national regulator of the trading venue of any such delay

Market Abuse Regulation – Control of inside information

Control of inside information

- Insider lists
 - Prescribed, detailed format
 - “Permanent” or transaction-specific
 - All persons who have access, including advisers, accountants and rating agencies
 - Must be promptly updated continuously and provided to the regulator as soon as possible upon request
- Market soundings regime (“wall-crossings”)
 - Communication of information, prior to the announcement of a transaction, to gauge the interest of potential investors in a possible transaction and the conditions relating to it
 - A safe harbour for the unlawful disclosure offence
 - Requirements for specific procedures and record-keeping

Market Abuse Regulation – Managers' transactions

Managers' transactions

- Persons discharging managerial responsibility (PDMRs) and their closely associated persons (CAPs / PCAs)
- Disclosure: Must disclose to the issuer and the national regulator certain notifiable transactions in the issuer's securities
 - The issuer must in turn ensure that any such notification is also disclosed to the market
- Closed periods (PDMRs only): Generally prohibited from dealing when in possession of inside information or when in a "closed period" (i.e. thirty days before an announcement of interim or annual results)
- Issuer internal share dealing codes may apply additional requirements – such as obtaining "permission to deal"

SECTION 4

TRANSPARENCY DIRECTIVE

Transparency Directive

- Directive 2004/109/EC of 15 December 2004 as amended by Directive 2013/50/EU of 22 October 2013
- Harmonisation of “transparency requirements” across the EEA by setting minimum standards for disclosure of information by issuers
 - “Minimum harmonisation directive”, therefore member states can impose more onerous obligations
 - Requires implementation by legislation in each member state
- Applies to issuers of securities admitted to trading on a regulated market
- Main requirements include:
 - Issuers to publish periodic financial reports
 - Major shareholders’ interests to be disclosed when these cross certain thresholds
 - Obligation on issuers to disclose certain information to the market

Transparency Directive - Financial information

- Prepare consolidated accounts in compliance with IFRS
- Publish annual report within 4 months of financial year end
- Publish a half yearly report within three months of the end of the first six month period of the financial year
- Both reports must:
 - be publicly available for at least ten years
 - include audited financial statements, a management report and responsibility statements
- From 1 January 2020 all annual financial reports shall be prepared in a single electronic reporting format

Transparency Directive - Disclosure of major shareholdings

- Applies where a shareholder acquires/disposes of shares trading on an EU regulated market
 - Shareholder must inform the issuer when its holdings pass through certain thresholds (up or down)
 - The issuer must then disclose this information to the market.
- Thresholds:
 - 5%, 10%, 15%, 20%, 25%, 30%, 50% and 75% of voting rights
 - In some EEA member states (e.g. UK) there may be higher standards
- Holdings/interests extend beyond direct ownership, e.g.
 - Control of voting rights
 - Relevant financial instruments
- Exceptions for some categories of persons/activities
- Issuer obligation to publish TVRs

Transparency Directive - Miscellaneous other disclosure obligations

- General obligation on issuers to ensure:
 - equal treatment for all shareholders in the same position
 - all facilities and information necessary to enable shareholders to exercise their rights, including by proxy, are available to them
- Specific obligations to provide information relating to shareholder meetings, appointment of proxies, payments of dividends, etc.

Other Directives - Statutory Audit Directive and Accounting Directive

Accounting Directive

- Governs form and content of annual and consolidated financial statements
- Applies to EU companies and branches, with additional rules for PIEs
- PIEs must also include certain other information and statements in financial reports, including statements relating to corporate governance, diversity and environmental, social and other matters

Statutory Audit Directive

- Minimum harmonisation directive
- Applies to public-interest entities (PIEs)
- Corporate governance requirements
 - Auditor independence
 - Auditors' appointment to require shareholder approval
 - Requirement for audit committees

SECTION 5

LOCAL COUNTRY LAWS AND SUPER-EQUIVALENCE

Local country laws and stock exchange rules

- In addition to EU-wide rules, certain continuing obligations will be based on laws in the jurisdiction in which the issuer is incorporated and/or the jurisdiction of the listing
- Certain of such laws are implemented into stock exchange rules
- Examples of continuing obligations under local laws and stock exchange rules include:
 - Pre-emption rights
 - Transaction-specific rules
 - Annual report disclosures / financial reporting
 - Corporate governance
 - Shareholder notification/ approval of significant transactions and related party transactions
 - Notifications to stock exchange/regulator
 - Maintaining listing eligibility requirements
 - Market disclosures
 - Listing principles (e.g., equal treatment, etc.)

Super-equivalence: Different listing standards in UK

- European directives do not purport to regulate the requirements for obtaining and maintaining a listing on any particular regulated market
- “Super-equivalent” requirements are those more onerous than the requirements contained in the relevant European directive
- In the UK, securities must be listed to be admitted to an EU regulated market
 - Some exceptions for specialist markets and securities
- FCA offers two different segments of listing in the UK: standard and premium
 - Premium listing only available to equity shares of trading and investment companies
 - GDRs, debt and other securities can only be standard listed
- Standard:
 - Effectively, compliance with EU minimum standards
- Premium:
 - Higher “super-equivalent” regulatory standards
 - Some benefits, e.g. qualifying for FTSE indices

UK premium listing: General ongoing obligations

- Independence
 - Independent business
 - Independence from controlling shareholder
 - Operational control over the business it carries on as its main activity
- Premium listing principles
- Sponsor
- Enhanced notification obligations e.g. changes in share capital, changes to the board
- Additional disclosures and confirmations in financial statements
- Some circulars must be approved by the FCA
- Certain documents must obtain shareholder approval
- UK Corporate Governance Code

UK premium listing: Transactions

- Significant transactions
 - Class tests
 - Class 1 transactions require prior shareholder approval
- Related party transactions
- Dealing in own securities
- Pre-emption rights on new issues
- Procedural requirements for certain types of transaction, e.g. rights issues

Other UK markets

- Certain UK markets are not EU regulated markets, e.g. AIM
 - MAR applies to MTFs (including AIM) and OTFs
 - Many other EU continuing obligations do not apply to non EU regulated markets
- Non EU regulated markets have their own rulebooks, published and supervised by the exchanges themselves, e.g. AIM Rules for Companies
 - In some cases, the extent of continuing obligations is higher than apply to standard listed companies
 - In addition, some of the legislation implementing the EU rules in the UK also specifically extends the rules to companies quoted on AIM

Questions?



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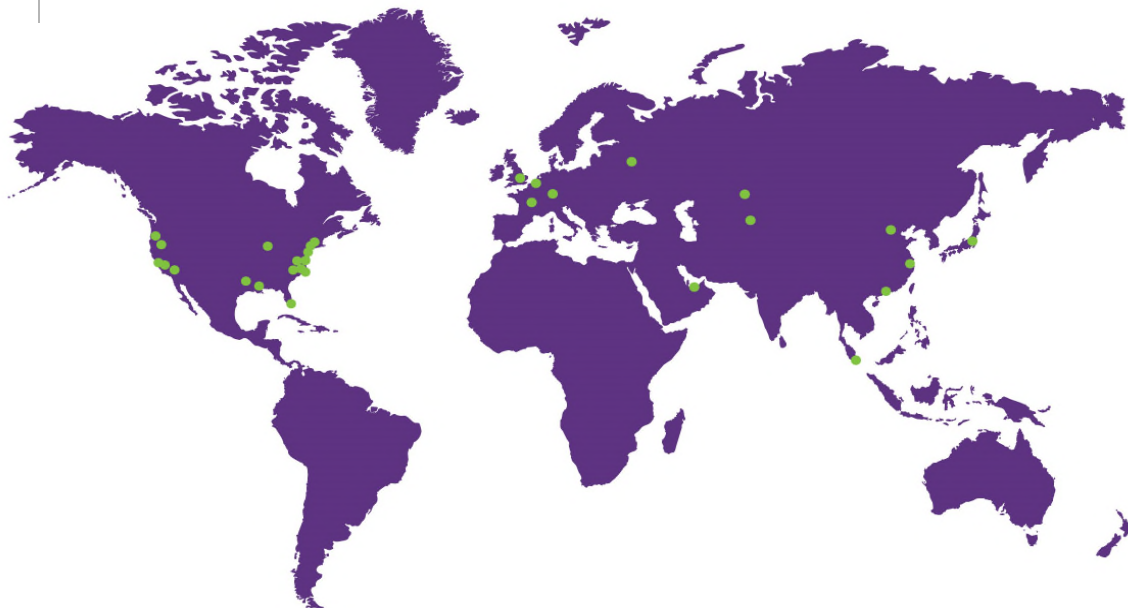
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