

ESMA's clarification is very welcome for Holders and Issuers alike, as it provides additional clarity and certainty on their obligations in each Member State.

The Cyprus position-ESMA publishes practical guide on transparency directive major holdings notification regime

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The European Securities and Markets Authority (**ESMA**) has published a practical guide (**Guide**) which provides an overview of the national rules of each Member State for the major holdings notification regime provided for under EU 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 (**Transparency Directive** or **TD**).

ESMA has previously issued detailed guidelines as well as Q&As in respect of the application of the TD, however the Guide constitutes a useful reference tool for companies which are listed on a regulated market of another Member State (**Issuers**), and holders of listed securities of such Issuers (**Holders**). The Guide provides a summary on a country-by-country basis of the national requirements regarding the notifications of 'major holdings' under the national law of each Member State in accordance with the TD.

'Major holdings'

Pursuant to the TD, Holders, Issuers and certain other persons are required to make certain notifications of the proportion of voting rights of the Holder in the Issuer resulting from the acquisition or disposal of 'major holdings' by a Holder.

In Cyprus, 'major holdings' are met where a Holder acquires or disposes of a proportion of shares to which voting rights are attached in an Issuer, where that proportion reaches, exceeds, or falls below the thresholds of 5 per cent, 10 per cent, 15 per cent, 20 per cent, 25 per cent, 30 per cent, 50 per cent and 75 per cent. A Holder who newly acquires shares in an Issuer and meets these thresholds is also required to make the relevant notifications. The Notifications must be submitted using a prescribed form.

Crossborder confusion

As a European directive, the TD has been implemented in each Member State under the national legislation of each such Member State. Therefore, although the TD has contributed to the

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simplification of the reporting regimes in cross-border structures, the individual transposition of the Transparency Directive into national law in each Member State has meant that diverging notification procedures are implemented across the EU.

As a result, Holders and perhaps even Issuers, particularly in cross-border structures, may often find themselves unknowingly overlooking to make certain notifications required by the national reporting regimes.

Welcome clarification for Cyprus

The Guide clarifies certain key obligations and deadlines which apply under the Cyprus legislation implementing the TD and the Transparency Requirements Law, L.190(I)/2007, as amended (**Law**).

Issuers who are subject to the Law are required to make notifications under Article 12 of the TD in relation to certain notifications such Issuers receive. The deadline by which such notification must be made is the trading day after the day on which the Issuer received the notification.

In addition, the Guide clarifies certain other key deadlines under the Law as follows:

- the date on which a Holder is deemed to trigger a notification requirement in respect of transactions which are carried out on a regulated market (on-exchange transactions) is the trade date
- the event by which a Holder is deemed to trigger a notification requirement in respect of a change in the breakdown of voting rights under Article 9(2) of the TD (passive crossings) is when the relevant publication by the Issuer of the voting rights is made under Article 15 of the TD. The Issuer must make this publication at the end of each calendar month
- the Guide also specifies that intra-day netting, understood to refer to circumstances where a Holder who exceeds a notification threshold and falls below the same notification threshold later in the same trading day nets the voting rights for the purposes of calculating its notification position, is permitted under the Law

Conclusion

The Guide addresses certain common pitfalls in relevant cross-border structures and ESMA's clarification is very welcome for Holders and Issuers alike, as it provides additional clarity and certainty on their obligations in each Member State.

We discuss in detail the reporting requirements in cross-border structures of Issuers where Cyprus is the home Member State of the Issuer in our article [here](#).

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