

Dispensation from section 1028 — certain securities or money-market instruments constituting consideration for allotment

1031. (1) In this section—

“relevant assets” means securities or instruments (or, as the case may be, both) referred to in the definition of “securities based consideration” in this subsection;

“securities based consideration” means consideration consisting of—

(a) transferable securities as defined in point 18 of Article 4(1) of Directive 2004/39/ EC of the European Parliament and of the Council of 21 April 2004 on markets in financial instruments;

(b) money-market instruments as defined in point 19 of Article 4(1) of that Directive; or

(c) both such transferable securities and such money-market instruments.

(2) Where this section applies then either—

(a) the requirements of section 1028 do not apply; or

(b) those requirements only apply if the contingency specified in subsection (4)(b) arises.

(3) This section applies where the consideration for the allotment of the shares consists wholly, or together with cash consideration, of securities based consideration and—

(a) the conditions specified in subsection (4) are satisfied with respect to the securities based consideration; and

(b) the value of the securities based consideration is not less than the value of the relevant assets as determined in accordance with paragraph (a) of that subsection.

(4) The following are the conditions with respect to the securities based consideration—

(a) the relevant assets are valued at the weighted average price at which they have been traded on one or more regulated markets during a period of 5 consecutive days (any break arising on account of closure of such market on one or more days being disregarded) immediately preceding the date on which those assets are treated as consideration given for the allotment of the shares in question; and

(b) the foregoing price has not been affected by exceptional circumstances that would significantly change the value of the asset at the foregoing date, including situations where the market for the securities or instruments concerned has become illiquid.

(5) If exceptional circumstances or a situation as mentioned in subsection (4)(b) arise, a valuation under section 1028 of the relevant assets shall be caused to be carried out by the PLC and the relevant provisions of sections 1028 to 1030 shall apply accordingly.

(6) Where this section applies and shares are proposed to be allotted by a PLC without a report of an independent expert as otherwise required by sections 1028 to 1030, the PLC shall, no later than the date of allotment, deliver, in the prescribed form, notice of the proposed allotment to the Registrar, which notice shall contain—

(a) a description of the consideration other than in cash at issue;

(b) the value of that consideration, the source of its valuation and, where appropriate, the method of valuation;

(c) a statement whether the value arrived at corresponds at least to the number and nominal value of, and (where appropriate) to the premium on, the shares to be issued for that consideration.

(7) Where shares have been allotted as mentioned in subsection (6), the notice of the allotment delivered under section 1021 (9) to the Registrar in respect of those shares shall—

(a) contain—

(i) a description of the consideration other than in cash at issue;

(ii) the value of that consideration, the source of its valuation and, where appropriate, the method of valuation; and

(iii) a statement whether the value arrived at corresponds at least to the number and nominal value of, and (where appropriate) to the premium on, the shares issued for that consideration;

which may be by reference to the particulars delivered in accordance with subsection (6); and

(b) contain a statement that no exceptional circumstances or a situation as mentioned in subsection (4)(b) with regard to the original valuation arose prior to the allotment.