Commission Delegated Regulation (EU) 2020/1272 of 4 June 2020 amending and correcting Delegated Regulation (EU) 2019/979 supplementing Regulation (EU) 2017/1129 of the European Parliament and of the Council with regard to regulatory technical standards on key financial information in the summary of a prospectus, the publication and classification of prospectuses, advertisements for securities, supplements to a prospectus, and the notification portal (Text with EEA relevance)

COMMISSION DELEGATED REGULATION (EU) 2020/1272

of 4 June 2020

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(Text with EEA relevance)

THE EUROPEAN COMMISSION,

Having regard to the Treaty on the Functioning of the European Union,

Having regard to Regulation (EU) 2017/1129 of the European Parliament and of the Council of 14 June 2017 on the prospectus to be published when securities are offered to the public or admitted to trading on a regulated market, and repealing Directive 2003/71/EC[(1)], and in particular Articles 7(13), 21(13) and 23(7) thereof,

Whereas:

(1) Under Commission Delegated Regulation (EU) 2019/979[(2)], issuers of securities convertible or exchangeable into third party shares are currently required, in the situations listed in Article 18 of that Regulation, to publish a supplement to their prospectus. By contrast, Commission Delegated Regulation (EU) No 382/2014[(3)], which has been replaced by the Delegated Regulation (EU) 2019/979, did not require the publication of a supplement by such issuers in those situations. As those rules have proven to work well and have not affected the level of investor protection, all references to issuers of securities convertible or exchangeable into third party shares should be removed from the list in Article 18(1) of Delegated Regulation (EU) 2019/979.

(2) To provide investors with a comparative overview of the evolution of the cash flow statement of a non-financial entity issuing equity securities, the column relating to the cash flow information for the two years prior to the year of the prospectus should be inserted in table 3 of Annex I to Delegated Regulation (EU) 2019/979.

(3) Field 26 of Annex VII to Delegated Regulation (EU) 2019/979, which relates to depository receipts, refers to 'DRCP'. That field should however refer to 'DPRS', which is the reference used in the Financial Instruments Reference Data System (FIRDS)

Changes to legislation: *There are currently no known outstanding effects for the Commission Delegated Regulation (EU) 2020/1272. (See end of Document for details)*

operated by the European Securities and Markets Authority (ESMA) in accordance with Regulation (EU) No 600/2014 of the European Parliament and of the Council[(4)].

(4) Delegated Regulation (EU) 2019/979 should therefore be amended accordingly.

(5) In the Czech, English, Portuguese and Slovak language versions of Article 21 of Delegated Regulation (EU) 2019/979, a word has been omitted, making that provision difficult to understand. That provision should be corrected accordingly.

(6) This Regulation is based on the draft regulatory technical standards submitted by the European Securities and Markets Authority (ESMA) to the Commission.

(7) In the interest of legal certainty, summaries of prospectuses approved between 21 July 2019 and 16 September 2020 should continue to be valid until the end of the validity of those prospectuses.

(8) Regulation (EU) 2017/1129 and Delegated Regulation (EU) 2019/979 entered into application on 21 July 2019. For reasons of legal certainty and to ensure the correct functioning of the prospectus notification portal, Article 1, points (1), (3), and (4), and Article 2 of this Delegated Regulation should have the same date of application as Regulation (EU) 2017/1129 and Delegated Regulation (EU) 2019/979.

(9) Given the urgency of this matter and the limited scope and impact of the draft regulatory standards on which this Regulation is based, ESMA has neither conducted open public consultations, nor analysed the potential related costs and benefits. ESMA has requested the opinion of the Securities and Markets Stakeholder Group established in accordance with Article 37 of Regulation (EU) No 1095/2010 of the European Parliament and of the Council[(5)],

HAS ADOPTED THIS REGULATION:

Article 1

Amendments to Delegated Regulation (EU) 2019/979

Delegated Regulation (EU) 2019/979 is amended as follows:

(1) Article 18(1) is amended as follows:

(a) in point (a), points (i) and (ii) are replaced by the following:

(i) an issuer where a prospectus relates to shares or other transferrable securities equivalent to shares;

(ii) an issuer of the underlying shares or other transferable securities equivalent to shares in case of securities referred to in Articles 19(2) or 20(2) of Delegated Regulation (EU) 2019/980;;

(b) in point (d), points (i) and (ii) are replaced by the following:

(i) an issuer where a prospectus relates to shares or other transferrable securities equivalent to shares;

(ii) an issuer of the underlying shares or other transferable securities equivalent to shares where a prospectus relates to securities referred to in Articles 19(2) or 20(2) of Delegated Regulation (EU) 2019/980;;

(c) point (e) is replaced by the following:

(e) third parties make a new takeover bid as defined in Article 2(1)(a) of Directive 2004/25/EC of the European Parliament and of the Council[6] or the result of any takeover bid becomes available in respect of any of the following:

(i) the equity of the issuer where a prospectus relates to shares or other transferrable securities equivalent to shares;

(ii) the equity of the issuer of the underlying shares or other transferable securities equivalent to shares where a prospectus relates to the securities referred to in Articles 19(2) or 20(2) of Delegated Regulation (EU) 2019/980;

(iii) the equity of the issuer of the underlying shares of depository receipts where a prospectus is drawn up in accordance with Articles 6 and 14 of Delegated Regulation (EC) 2019/980;;

(d) in point (f), points (i) and (ii) are replaced by the following:

(i) shares or other transferrable securities equivalent to shares;

(ii) securities as referred to in Article 19(2) of Delegated Regulation (EU) 2019/980;;

(e) point (h) is replaced by the following:

(h) in the case of a prospectus relating to shares or other transferrable securities equivalent to shares or to the securities referred to in Articles 19(2) or 20(2) of Delegated Regulation (EU) 2019/980, a new significant financial commitment is likely to give rise to a significant gross change as defined in Article 1, point (e), of that Delegated Regulation;;

(2) the following Article 22a is inserted:

Article 22a

Summaries of prospectuses approved between 21 July 2019 and 16 September 2020 for non-financial entities issuing equity securities

Summaries of prospectuses that contain information as referred to in Table 3 of Annex I and that have been approved between 21 July 2019 and 16 September 2020 shall continue to be valid until the end of the validity of those prospectuses.;

(3) Annex I is amended in accordance with Annex 1 to this Regulation;

(4) Annex VII is amended in accordance with Annex 2 to this Regulation.