Changes to legislation: *Commission Delegated Regulation (EU) 2015/1604 is up to date with all changes known to be in force on or before 28 December 2020. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details) View outstanding changes*

Commission Delegated Regulation (EU) 2015/1604 of 12 June 2015 amending Regulation (EC) No 809/2004 implementing Directive 2003/71/EC of the European Parliament and of the Council as regards elements related to prospectuses and advertisements (Text with EEA relevance)

COMMISSION DELEGATED REGULATION (EU) 2015/1604

of 12 June 2015

amending Regulation (EC) No 809/2004 implementing Directive 2003/71/EC of the European Parliament and of the Council as regards elements related to prospectuses and advertisements

(Text with EEA relevance)

THE EUROPEAN COMMISSION,

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

Having regard to Directive 2003/71/EC of the European Parliament and of the Council of 4 November 2003 on the prospectus to be published when securities are offered to the public or admitted to trading and amending Directive 2001/34/EC[(1)], and in particular Article 7(1) thereof,

Whereas:

(1) Commission Regulation (EC) No 809/2004[(2)] requires third country issuers to prepare the historical financial information in prospectuses for offer of securities to the public or the admission of securities to trading on a regulated market in accordance with International Financial Reporting Standards (IFRS) or with the national accounting standards of a third country provided they are equivalent to these standards.

(2) In order to assess the equivalence of the Generally Accepted Accounting Principles (GAAP) of a third country with adopted IFRS, Commission Regulation (EC) No 1569/2007[(3)] provides for the definition of equivalence and establishes a mechanism for the determination of equivalence of the GAAP of a third country. According to the conditions of the equivalence mechanism, third country issuers could be permitted to use the GAAP of third countries which were converging or committed to adopt IFRS for a transitional period ending on 31 December 2014. It is important to assess the efforts of those countries which have taken steps to converge their accounting standards to or adopt IFRS. Therefore, Regulation (EC) No 1569/2007 should be amended to extend this transitional period until 31 March 2016. The Commission took account of the report provided by the European Securities and Markets Authority (ESMA) in October 2014 on India, which had received a transitional period by Commission Decision 2008/961/EC[(4)] and Regulation (EC) No 809/2004 adopted under the equivalence mechanism.

(3) The government of India and the Indian Institute of Chartered Accountants made a public commitment to adopt IFRS by 31 December 2011 with the aim that Indian GAAP would be fully IFRS compliant by the end of the programme. This process has been delayed. In October 2014, ESMA submitted to the Commission a report on the

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equivalence of Indian GAAP. In this report ESMA observed that Indian GAAP appear to have a number of differences from IFRS which could be significant in practice.

(4) In March 2014 the Indian Institute of Chartered Accountants published a new roadmap for implementation of convergence of Indian GAAP with IFRS. In January 2015, the Ministry of Corporate Affairs of India announced a revised roadmap for the implementation of Indian GAAP that will be converged with IFRS. This roadmap foresees the mandatory use of Indian GAAP, converged with IFRS, by all listed companies for accounting periods beginning on or after 1 April 2016. However, uncertainties remain about the timetable for the implementation of an IFRS-compliant reporting system and IFRS enforcement.

(5) Accordingly, it is appropriate to extend the transitional period for no more than until 1 April 2016, in order to allow third-country issuers to prepare their annual and half-yearly financial statements in accordance with the Indian GAAP for use within the Union. This additional period should be sufficient to allow Indian authorities to complete the convergence of Indian GAAP with IFRS.

(6) Since the period for which the Commission had put in place conditions for granting equivalence to the Generally Accepted Accounting Principles (GAAP) of third countries expired on 31 December 2014, this Regulation should apply from 1 January 2015 and enter into force without delay. This is necessary in order to provide legal certainty to issuers from the relevant third countries listed in the Union and avoid the risk that they might have to reconcile their financial statements with International Financial Reporting Standards (IFRS). The provision of retroactivity thus alleviates any potential additional burden on the issuers concerned.

(7) Regulation (EC) No 809/2004 should therefore be amended accordingly,

HAS ADOPTED THIS REGULATION:

Article 1

In paragraph 5a of Article 35 of Regulation (EC) No 809/2004 all references to the date 1 January 2015 are replaced by the date 1 April 2016.

Article 2

This Regulation shall enter into force on the day of its publication in the *Official Journal of the European Union*.

It shall apply from 1 January 2015.

This Regulation shall be binding in its entirety and directly applicable in all Member States.