

2022

Exposure Draft

Standards for Investment Reporting (Ireland) 4000

Investment Reporting Standards Applicable to  
Public Reporting Engagements on Pro Forma  
Financial Information



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## Mission

To contribute to Ireland having a strong regulatory environment in which to do business by supervising and promoting high quality financial reporting, auditing and effective regulation of the accounting profession in the public interest.

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## Table of Contents

|  |    |
|--|----|
| Preface .....  | 3  |
| Introduction.....  | 4  |
| The nature of pro forma financial information .....  | 4  |
| Engagement acceptance and continuance .....  | 6  |
| Agreeing the terms of the engagement.....  | 6  |
| Legal and regulatory requirements .....  | 6  |
| Planning and performing the engagement.....  | 6  |
| Reporting.....   | 13 |
| Modified Opinions .....  | 14 |
| Events occurring between the date of the reporting accountant’s report and the completion date of the transaction..... | 15 |
| Effective Date.....  | 15 |
| Appendix 1: Reporting Accountant Criteria.....   | 16 |
| Appendix 2: Other Regulatory Provisions Relevant to the Preparers of Pro Forma Financial Information .....             | 19 |
| Appendix 3: Examples of Engagement Letter Clauses .....  | 23 |
| Appendix 4: Examples of Management Representation Letter Clauses .....   | 24 |
| Appendix 5: Illustrative Report .....  | 25 |

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## Preface

SIR (Ireland) 1000 “Investment Reporting Standards Applicable to all Engagements in Connection with an Investment Circular” contains basic principles and essential procedures (“Investment Reporting Standards”) that are applicable to all engagements involving an investment circular, prepared for issue in connection with a securities transaction governed wholly or in part by the laws and regulations of Ireland.

SIR (Ireland) 4000 contains specific additional Investment Reporting Standards, indicated by paragraphs in bold type, with which a reporting accountant is required to comply in the conduct of an engagement to report on pro forma financial information, which is included within an investment circular prepared for issue in connection with a securities transaction governed wholly or in part by the laws and regulations of Ireland.

SIR (Ireland) 4000 also includes explanatory and other material, including appendices, in the context of which the Investment Reporting Standards are to be understood and applied. It is necessary to consider the whole text of the SIR (Ireland) to understand and apply the basic principles and essential procedures.

The definitions in the glossary of terms set out in Appendix 3 of SIR (Ireland) 1000 are to be applied in the interpretation of this and all other SIRs (Ireland). Terms defined in the glossary are underlined the first time that they occur in the text.

To assist readers, SIRs (Ireland) contain references to certain legislation and regulations. Readers are cautioned that these references may change subsequent to publication.

## Introduction

- 1 The purpose of this SIR (Ireland) is to establish specific additional Investment Reporting Standards and provide guidance for a reporting accountant engaged to report publicly on pro forma financial information to be included in an investment circular under Irish and EU Prospectus Law, the Listing Rules, or if required in respect of an Information Document.
- 2 An engagement to report publicly on the proper compilation of pro forma financial information is a public reporting engagement as described in SIR (Ireland) 1000. The description of a public reporting engagement includes three generic terms having the following meanings in the context of an engagement to report on the proper compilation<sup>1</sup> of pro forma financial information:
  - I. with respect to pro forma financial information the “**subject matter**” is the impact that the transaction would have had on the earnings of the issuer (assuming that the transaction had been undertaken at the commencement of the financial period used for the illustration) or on the assets and liabilities of the issuer (assuming that the transaction had been undertaken at the end of the financial period used for the illustration);
  - II. “**suitable criteria**” to be used by directors in the preparation of the pro forma financial information are provided by the requirements of the Central Bank’s Guidance on Prospectus Regulatory Framework.<sup>2</sup> In forming its opinion as to whether the pro forma financial information has been properly compiled the reporting accountant considers whether certain of those criteria (“**reporting accountant’s criteria**”) have been properly applied. Reporting accountant’s criteria are set out in Appendix 1 of this SIR(Ireland); and
  - III. with respect to pro forma financial information the “**outcome**”<sup>3</sup> is the pro forma financial information and related disclosures that are included in the investment circular and on which the reporting accountant expresses an opinion (in the “**reporting accountant’s report**”) as to whether that information is properly compiled on the basis stated and whether such basis is consistent with the accounting policies of the issuer.

## The nature of pro forma financial information

- 3 Under CDR (EU) No 2019/980<sup>4</sup>, a company which issues a prospectus must, in the case of a ‘significant gross change’, include a description of how the transaction might have affected the assets and liabilities and earnings of the issuer, had the transaction been undertaken at the commencement of the period being reported on, or at the date reported. This requirement will ‘normally’ be satisfied by the inclusion of pro forma financial information, which is a hypothetical

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<sup>1</sup> References to ‘proper compilation’ in this SIR (Ireland) should be read as references to the full form of the reporting accountant’s opinion which is set out in Appendix 5.

<sup>2</sup> The Central Bank’s Guidance on Prospectus Regulatory Framework states that documents persons should have regard to include: Regulation (EU) No 2017/1129; Chapter 1, Part 23 of the Companies Act 2014; the European Union (Prospectus) Regulations 2019 (SI 380/2019); CDR (EU) No 2019/980; Commission Delegated Regulation (EU) No 2019/979; Part 4 (Prospectus Requirements) of the Central Bank (Investment Market Conduct) Rules; the ESMA Guidelines on Alternative Performance Measures; ESMA’s Guidelines on disclosure requirements under the Prospectus Regulation; and ESMA’s questions and answers documents.

<sup>3</sup> The “outcome” is sometimes described as “subject matter information”.

<sup>4</sup> CDR (EU) No 2019/980 Annex 20.

illustration of the impact of a transaction or transactions on an issuer's assets, liabilities and earnings. A 'significant gross change' means a variation of more than 25% to one or more indicators of the size of the issuer's business.

- 4 If a listed entity includes pro forma financial information in a class 1 circular, a related party circular or a circular relating to the purchase by the company of 25% or more its issued equity shares (excluding treasury shares), it must comply with the requirements for pro forma financial information set out in the Prospectus Regulation.<sup>5</sup>
- 5 For the purpose of this SIR (Ireland) "pro forma financial information" is defined to include financial information such as net assets, or profits that demonstrate the impact of a transaction on previously published financial information together with explanatory notes. In accordance with CDR (EU) No 2019/980 the pro forma financial information must be accompanied by introductory text setting out: its purpose, including a description of the transaction or significant commitment and the businesses or entities involved; the period or date which it covers; and the fact that the financial information has been prepared for illustrative purposes only. The pro forma financial information must also be accompanied by an explanation that it illustrates the impact of the transaction as if the transaction had been undertaken at an earlier date; and, that the hypothetical financial position or results included in the pro forma financial information may differ from the entity's actual financial position or results.<sup>6</sup>

## Compilation process

- 6 The compilation of pro forma information is the gathering, classification, summarisation and presentation of relevant financial information illustrating the impact of a relevant transaction as if the transaction had been undertaken at an earlier date. The process followed by the preparer would be expected to include the following:
  - the accurate extraction of historical unadjusted information from sources permitted under paragraph 104 of the ESMA Guidelines on Disclosure Requirements under the Prospectus Regulation;
  - the making of adjustments to the source information that are arithmetically correct, appropriate and complete for the purpose for which the pro forma financial information is presented;
  - arithmetic computation of the pro forma information;
  - consideration of consistency of accounting policies;
  - appropriate disclosure to enable the intended users to understand the pro forma financial information; and
  - appropriate consideration of the pro forma financial information and approval by the directors of the entity.

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<sup>5</sup> LR 12.3.3. *Pro forma financial information in certain circulars.*

<sup>6</sup> CDR (EU) No 2019/980 Annex 20.

## Engagement acceptance and continuance

- 7 When accepting or continuing an engagement to report publicly on pro forma information, the reporting accountant ascertains whether the directors intend to comply with all relevant regulatory requirements, in particular those that constitute the reporting accountant's criteria set out in Appendix 1 of this SIR (Ireland).

## Agreeing the terms of the engagement

- 8 Examples of engagement letter clauses are set out in Appendix 3 of this SIR (Ireland).

## Legal and regulatory requirements

- 9 CDR (EU) No 2019/980 requires any pro forma financial information included in a prospectus to be reported on by independent accountants or auditors (referred to in this SIR (Ireland) as the "reporting accountant") and specifies the form of opinion to be given. The Listing Rules applicable to companies applying for, or already with a primary listing require any pro forma financial information included in a Class 1 circular, a related party circular or a circular relating to the purchase by the company of 25% or more of its issued equity shares (excluding treasury shares) to be reported on in the same way.<sup>7</sup> References in the SIR (Ireland) to CDR (EU) No 2019/980 apply equally to the Listing Rules where those Rules apply.
- 10 In a hostile takeover, if a class 1 circular is prepared, where an offeror does not have access to the relevant offeree information, the offeror may exceptionally, in agreement with the competent authority, describe the effect of the transaction other than through pro forma financial information.<sup>8</sup>
- 11 Any pro forma financial information included in a prospectus (whether or not there has been a significant gross change) must be prepared in accordance with CDR (EU) No 2019/980, including an accountant's report. This includes pro forma financial information included in a prospectus on a voluntary basis.<sup>9</sup>
- 12 Appendices 1 and 2 to this SIR (Ireland) set out those provisions of CDR (EU) 2019/980 that provide the suitable criteria for directors. Those provisions that constitute criteria for a reporting accountant expressing an opinion on whether the pro forma information has been properly compiled are set out in Appendix 1 of this SIR (Ireland).

## Planning and performing the engagement

- 13 The reporting accountant shall obtain an understanding of the key factors affecting the subject matter sufficient to identify and assess the risk of the pro forma financial information not being properly compiled and sufficient to design and perform evidence gathering procedures including:**

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<sup>7</sup> LR 12.3.3.

<sup>8</sup> Guideline 23 of the ESMA Guidelines on Disclosure Requirements under the Prospectus Regulation.

<sup>9</sup> Guideline 26 of the ESMA Guidelines on Disclosure Requirements under the Prospectus Regulation.



- I. **the nature of the transaction (or transactions) being undertaken by the issuer;**
- II. **the entity's business; and**
- III. **the procedures adopted, or planned to be adopted, by the directors for**

**the preparation of the pro forma financial information. (SIR (Ireland) 4000.1)**

- 14 The reporting accountant gains an understanding of the transaction, in respect of which the pro forma financial information is being prepared, by discussion with the directors or management of the issuer and by reading relevant supporting documentation.
- 15 The reporting accountant uses professional judgment to determine the extent of the understanding required of the entity's business for the purposes of reporting on the pro forma financial information.
- 16 Other matters for consideration by the reporting accountant include the availability of evidence to provide factual support for the proposed adjustments and the accounting policies that will form the basis of the adjustments to the pro forma financial information.

## **Materiality**

**17 The reporting accountant shall consider materiality and public reporting engagement risk in planning its work in accordance with its instructions and in determining the effect of its findings on the report to be issued. (SIR (Ireland) 4000.2)**

18 Matters are material if their omission or misstatement could, individually or collectively, influence the economic decisions of the intended users of the pro forma financial information. Materiality depends on the size and nature of the omission or misstatement judged in light of the surrounding circumstances. The size or nature of the matter, or a combination of both, could be the determining factor.

19 A misstatement in the context of the compilation of pro forma financial information includes, for example:

- Use of an inappropriate source for the unadjusted financial information;
- Incorrect extraction of the unadjusted financial information from an appropriate source;
- In relation to adjustments, the misapplication of accounting policies or failure to use the accounting policies adopted in the last, or to be adopted in the next, financial statements;
- Omission of an adjustment required by relevant regulations;
- Making an adjustment that does not comply with the relevant regulations;
- A mathematical or clerical mistake;
- Inadequate, or incorrect or omitted disclosures.

20 Evaluating whether an omission or misstatement could influence economic decisions of the intended users of the pro forma financial information, and so be material, requires consideration of the characteristics of those intended users. The intended users are assumed to:

- I. Have a reasonable knowledge of business and economic activities and accounting and a willingness to study the pro forma financial information with reasonable diligence;
- II. Understand that pro forma financial information addresses a hypothetical situation and therefore does not represent the company's actual financial position or results;
- III. Understand that pro forma financial information is prepared, presented and reported on to levels of materiality;
- IV. Recognise the uncertainties inherent in the measurement of amounts based on the use of estimates, judgment and the consideration of future events; and
- V. Make reasonable economic decisions on the basis of the pro forma financial information included as part of the investment circular.

The determination of materiality, therefore, takes into account how intended users with such characteristics could reasonably be expected to be influenced in making economic decisions.

## Public reporting engagement risk

21 “Public reporting engagement risk” is the risk that the reporting accountant expresses an inappropriate opinion when the pro forma financial information has not been properly compiled on the basis stated or that basis is not consistent with the accounting policies of the issuer.<sup>10</sup>

**22 The reporting accountant shall obtain sufficient appropriate evidence that the pro forma financial information is free from material error in its compilation by:**

- a. **checking that the unadjusted financial information of the issuer has been accurately extracted from a source that is both appropriate and in accordance with the relevant regulation;**
- b. **obtaining evidence that the directors have applied the criteria set out in Appendix 1 of this SIR (Ireland) and that the adjustments are appropriate and complete, for the purpose for which the pro forma financial information is presented; and**
- c. **checking that the calculations within the pro forma financial information are arithmetically correct. (SIR (Ireland) 4000.3)**

23 Item 2.2 of Annex 20 of Commission Delegated Regulation (EU) 2019/980 permits pro forma financial information to be published only in respect of:

- I. the last completed financial period; and/or
- II. the most recent interim period for which relevant unadjusted information has been published or is included in the same investment circular, registration document and/or prospectus.

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<sup>10</sup> Regulations require a positive and unmodified opinion – for this reason there is no risk that the reporting accountant will inappropriately modify its opinion.

## Unadjusted financial information of the issuer

**24 The reporting accountant shall consider whether the period in respect of which the pro forma financial information is proposed to be published is permitted under CDR (EU) No 2019/980. (SIR (Ireland) 4000.4)**

**25 The reporting accountant shall consider whether the source of the unadjusted financial information for the issuer is appropriate and whether the source of the unadjusted financial information is clearly stated. (SIR (Ireland) 4000.5)**

26 The source from which the unadjusted financial information has been extracted may be interim financial statements that have not been audited or reviewed whereas the entity's financial statements for the immediately preceding financial year may have been audited. Where the unadjusted financial information has not been extracted from audited or reviewed financial information, the following procedures may be performed by the reporting accountant, in relation to the appropriateness of the source from which the unadjusted financial information has been extracted:

- Inquiring of the directors about:
  - The process by which the source has been prepared and the reliability of the underlying accounting records to which the source is agreed or reconciled.
  - Whether all transactions have been recorded.
  - Whether the source has been prepared in accordance with the entity's accounting policies.
  - Whether there have been any changes in accounting policies from the most recent audited or reviewed period and, if so, how such changes have been dealt with.
  - Its assessment of the risk that the source may be materially misstated as a result of fraud.
  - The effect of changes in the entity's business activities and operations.
- If the reporting accountant has audited or reviewed the immediately preceding annual or interim financial information, considering the findings of such audit or review and whether these might indicate any issues with the preparation of the source from which the unadjusted financial information has been extracted.
- Corroborating the information provided by the directors in response to the reporting accountant's inquiries when the responses appear inconsistent with the reporting accountant's understanding of the entity or the engagement circumstances.
- Comparing the source with the corresponding prior period financial information and, as applicable, the immediately preceding annual or interim financial information, and discussing significant changes with the directors.

27 The reporting accountant is not required to perform specific procedures on the unadjusted financial information of the issuer other than as described in paragraph 26. However, if the reporting

accountant has reason to believe that the unadjusted financial information is, or may be, unreliable, or if a report thereon has identified any uncertainties or disagreements, the reporting accountant considers the effect on the pro forma financial information.

- 28 Factors that affect the appropriateness of the source from which the unadjusted financial information has been extracted include whether there is an audit or review report on the source and whether the source:
- I. is clearly identifiable; and
  - II. represents a reasonable starting point for compiling the pro forma financial information in the context of the transaction, including whether it is at an appropriate date or covers and appropriate period.

## Adjustments

- 29 Item 2.3 of Annex 20 of Commission Delegated Regulation (EU) 2019/980 requires pro forma adjustments to:
- a. be clearly shown and explained;
  - b. present all significant effects directly attributable to the transaction; and
  - c. be factually supportable.
- 30 In addition, in respect of a pro forma profit and loss, they must be clearly identified as between those adjustments which are expected to have a continuing impact on the issuer and those which are not.
- 31 More detailed guidance for directors concerning the implementation of these requirements is provided by the ESMA Guidelines on Disclosure Requirements under the Prospectus Regulation.
- 32 The reporting accountant considers the way in which the directors have fulfilled their responsibilities. With its understanding of the transaction and the entity's business as background the reporting accountant discusses with the directors the steps they have taken to identify relevant adjustments and whether such adjustments are permitted to be made.
- 33 The reporting accountant obtains evidence regarding whether the directors have appropriately identified the necessary pro forma adjustments through a combination of procedures such as:
- Evaluating the directors' approach to identifying the appropriate pro forma adjustments.
  - Inquiring of relevant parties within an acquiree regarding the approach to extracting the acquiree financial information.
  - Evaluating specific aspects of the relevant contracts, agreements or other documents.
  - Inquiring of the entity's advisors regarding specific aspects of the event or transaction and related contracts and agreements that are relevant to the identification of appropriate adjustments.

- Examination of the sale/purchase agreement, together with the description of the transaction in the Investment Circular.
  - Evaluating relevant analyses and worksheets prepared by the directors and other entity personnel involved in compiling the pro forma financial information.
  - Obtaining evidence of the directors' oversight of other entity personnel involved in compiling the pro forma financial information.
- 34 In the case of a divestment, matters for the reporting accountant to consider include, for example, whether income and expenses attributable to the divestee that are recorded at the consolidated level have been appropriately reflected in the pro forma adjustments.
- 35 If, as a result of these procedures and enquiries, the reporting accountant becomes aware of a significant adjustment which, in its opinion, ought to be made for the purposes of the pro forma financial information it discusses the position with the directors of the issuer and, if necessary, the issuer's advisers. If the reporting accountant is not able to agree with the directors and the issuer's advisers as to how the matter is to be resolved, it considers the consequences for its report.
- 36 The reporting accountant considers the adjustments to assess whether they are "directly attributable" to the transaction whose impact is being illustrated by the pro forma financial information, that is, they are an integral part of the transaction concerned. If a potential adjustment is not directly attributable to the transaction or transactions described in the investment circular, it cannot be made (although it may be appropriate to disclose by way of note to the pro forma financial information the nature of a prohibited potential adjustment and the effect it would have had if it had been permissible to include it).
- 37 In assessing whether adjustments are directly attributable to the transaction the reporting accountant considers whether the adjustments relate to future events and/or decisions. This is because adjustments that are related to the transaction being illustrated but which are dependent on actions to be taken once the transaction has been completed, cannot be said to be "directly attributable".
- 38 The reporting accountant considers whether the adjustments have been clearly shown and explained and, in respect of a pro forma profit and loss account, whether they have been clearly identified as to those which are expected to have a continuing impact on the issuer (that is, relate to events or circumstances that are expected to recur) and to those which are not.
- 39 The reporting accountant obtains sufficient appropriate evidence that the directors of the issuer have factual support for each adjustment. Sources of such evidence could include (for example):
- published financial statements;
  - other financial information or valuations disclosed elsewhere in the investment circular;
  - purchase and sale agreements and other agreements relating to the transaction.

## Omitted adjustments

- 40 In view of the specific restrictions on the nature of the adjustments permitted to be made under item 2.3 of Annex 20 of Commission Delegated Regulation (EU) 2019/980, the directors may not be

permitted to make all the adjustments that they would otherwise wish to. For example, an adjustment which is directly attributable but which is not factually supportable could not be included in pro forma financial information.

- 41 If any adjustments are excluded because of the requirements of CDR (EU) No 2019/980 for adjustments to be factually supportable, the reporting accountant considers the effect on the pro forma financial information and in particular whether the exclusion renders the pro forma financial information misleading. In such circumstances, the reporting accountant may consider that disclosure in the notes to the pro forma financial information of the fact that such an adjustment has not been made is sufficient in the context of the overall purpose of the pro forma financial information.
- 42 However, if the reporting accountant concludes that an omitted adjustment is so fundamental as to render the pro forma statement misleading in the context of the investment circular, it discusses the matter with the directors and, if necessary, the issuer's advisers and in the event that acceptable changes to the disclosures are not made, considers whether it is able to issue its report.

## Checking the calculations

- 43 The reporting accountant ascertains whether the adjustments made in the pro forma financial information are included under the appropriate financial statement caption as well as the arithmetical accuracy of the calculations within the pro forma financial information itself.

## Consistent accounting policies

- 44 The reporting accountant shall evaluate whether the adjustments made to the unadjusted financial information are consistent with the accounting policies adopted in the last, or to be adopted in the next, financial statements of the entity presenting the pro forma financial information. (SIR (Ireland) 4000.6)**
- 45 Where the reporting accountant is not the auditor of the issuer or has not otherwise reported on the financial information relating to the subject of the transaction, it evaluates the steps taken to ensure that the pro forma financial information has been prepared in a manner consistent with the accounting policies of the issuer.

## Presentation of pro forma financial information

- 46 The reporting accountant shall consider whether it has become aware of anything to cause it to believe that the pro forma financial information is presented in a way that is not understandable or is misleading in the context in which it is provided. If the reporting accountant is aware of such matters it should discuss them with the parties responsible for the pro forma financial information and with those persons to whom its report is to be addressed and consider whether it is able to issue its report. (SIR (Ireland) 4000.7)**
- 47 The reporting accountant reads the pro forma financial information to assess whether:
- I. as required by item 1.1 (a) of Annex 20 of Commission Delegated Regulation (EU) 2019/980, the pro forma financial information includes a description of the transaction or significant commitment and the businesses or entities involved; the period or date which it covers; and the fact that the financial information has been prepared for illustrative purposes only. The pro forma financial information must also be accompanied by an

explanation that it illustrates the impact of the transaction as if the transaction had been undertaken at an earlier date; and, that the hypothetical financial position or results included in the pro forma financial information may differ from the entity's actual financial position or results.

- II. in accordance with the normal form of presentation under item 1.1 (b) of Annex 20 of Commission Delegated Regulation (EU) 2019/980, the pro forma financial information is presented in columnar format composed of (a) the historical unadjusted information, (b) accounting policy adjustments, where necessary; (c) the pro forma adjustments and (d) the results of the pro forma financial information in the final column; and
- III. disclosures, in the notes to the pro forma financial information, concerning omitted adjustments are satisfactory.

48 The reporting accountant considers the relevant guidance for preparers of pro forma financial information.

## Representation letter

49 Examples of management representation letter clauses are set out in Appendix 4 of this SIR (Ireland).

## Reporting

### Responsibilities

**50 In all reports on pro forma financial information in investment circulars the reporting accountant shall explain the extent of its responsibility in respect of the pro forma financial information by including in its report:**

- a. **a statement that the reporting accountant's responsibility is to form an opinion (as required by the applicable regulatory requirements) on the proper compilation of the pro forma financial information and to report its opinion to the addressees of the report; and**
- b. **a statement that the pro forma financial information is the responsibility of the directors. (SIR (Ireland) 4000.8)**

### Basis of preparation of the pro forma financial information

**51 The reporting accountant shall include a basis of preparation section of its report that cross refers to disclosures that explain the basis of preparation of the pro forma financial information. (SIR (Ireland) 4000.9)**

52 The basis of preparation section of the report will make clear whether the accounting policies applied in the preparation of the pro forma information are those adopted by the entity in preparing the last published financial statements or those that it plans to adopt in the next published financial statements.

## Expression of opinion

- 53 The report on the pro forma financial information shall contain a clear expression of opinion that complies with applicable regulatory requirements. (SIR (Ireland) 4000.10)<sup>11</sup>**
- 54 In forming its opinion, the reporting accountant takes account of those events which the reporting accountant becomes aware of occurring up to the date on which the reporting accountant signs the report, that affect the opinion expressed in the report.
- 55 In providing the opinion required by CDR (EU) No 2019/980 the reporting accountant's assurance does not extend to any source financial information on which the pro forma financial information is based beyond that opinion. In particular, the reporting accountant is not refreshing or updating any opinion that it may have given in any other capacity on that source financial information.
- 56 The investment circular in which the reporting accountant's report is included may be made available in other countries, which have their own standards for accountants when reporting on pro forma financial information. In such circumstances, the reporting accountant considers whether to include a reference to the fact that a report issued in accordance with the SIRs (Ireland) should not be relied upon as if it had been issued in accordance with the standards applicable in that other country. An example of such a reference is included in the example report set out in Appendix 5 of this SIR (Ireland).
- 57 An example of a report on pro forma financial information expressing a positive and unmodified opinion, pursuant to CDR (EU) No 2019/980, is set out in Appendix 5 of this SIR (Ireland).

## Modified Opinions

- 58 In the event that the reporting accountant concludes that it is unable to report in the manner prescribed it considers, with the parties to whom it is to report, whether the pro forma financial information can be amended to alleviate its concerns or whether the pro forma information should be omitted from the investment circular and the requirement for information to be given on the effect of the transaction satisfied in some other way.
- 59 If the reporting accountant wants to draw an investor's attention to the fact that qualifications or emphases of matter have arisen in respect of the underlying unadjusted historical financial information used to prepare the pro forma financial information, they shall be presented separately in the report from the opinion concerning how the pro forma information was compiled<sup>12</sup>. (SIR (Ireland) 4000.11)**

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<sup>11</sup> See Section 3 Annex 20 Commission Delegated Regulation (EU) 2019/980; Guideline 25 of the ESMA Guidelines on Disclosure Requirements under the Prospectus Regulation.

<sup>12</sup> ESMA Guidelines on Disclosure Requirements under the Prospectus Regulation, paragraph 120.



## Events occurring between the date of the reporting accountant's report and the completion date of the transaction

- 60 Under Listing Rule 12.4.9, a supplementary investment circular must be prepared if, after the publication of a circular that seeks shareholder approval for a transaction expressly requiring a vote by the Listing Rules, but before the date of a general meeting, the issuer becomes aware that there has been a material change affecting any matter the issuer is required to have disclosed in the document or a material new matter has arisen, the inclusion of information in respect of which would have been required if it had arisen at the time of its publication.
- 61 Under Article 23 of the Prospectus Regulation (Regulation (EU) 2017/1129), every significant new factor, material mistake or material inaccuracy relating to the information included in a prospectus which may affect the assessment of the securities and which arises or is noted, between the time when the prospectus is approved and the closing of the offer period, or the time when trading on a regulated market begins, whichever occurs later, shall be mentioned in a supplement to the prospectus without undue delay.
- 62 If, as a result of discussions with those responsible for the investment circular concerning an event that occurred prior to the completion date of the transaction, the reporting accountant is either uncertain about or disagrees with the course of action proposed it may consider it necessary to take legal advice with respect to its responsibilities in the particular circumstances.
- 63 After the date of its report, the reporting accountant has no further obligation to perform procedures or make enquiries regarding the investment circular.

## Effective Date

- 64 This Investment Reporting Standard is effective for reporting accountant engagements commencing on or after 15 September 2022. Early adoption is permitted.

## Appendix 1: Reporting Accountant Criteria

|   | Annex 20 of Commission Delegated Regulation (EU) 2019/980 | ESMA Guidelines on Disclosure Requirements under the Prospectus Regulation |
|---|---|--|
| In the case of a significant gross change, a description of how the transaction might have affected the assets and liabilities and earnings of the issuer, had the transaction been undertaken at the commencement of the period being reported on or at the date reported. This requirement will normally be satisfied by the inclusion of pro forma financial information.  |   | 19,20  |
|   |   |  |
| The pro forma financial information consists of a profit and loss account, a balance sheet or both, depending on the circumstances presented in columnar format composed of: <ul style="list-style-type: none"> <li>i. historical unadjusted information;</li> <li>ii. accounting policy adjustments, where necessary;</li> <li>iii. pro forma adjustments; and</li> <li>iv. the results of the pro forma financial information in the final column.</li> </ul> | 1.1.b   |  |
|   |   |  |
| ESMA considers that the expression “the historical unadjusted information” <u>normally</u> refers to the statutory historical financial information that has been prepared by the issuer normally to fulfil company law requirements or to statutory interim financial information prepared by the issuer.  |   | 21   |

|  | <b>Annex 20 of Commission Delegated Regulation (EU) 2019/980</b> | <b>ESMA Guidelines on Disclosure Requirements under the Prospectus Regulation</b> |
|--|--|---|
|  |  |   |
| The sources of the pro-forma financial information have to be stated, and whether or not an audit or review report on the source has been published.   | 1.1.c.i  |   |
|  |  |   |
| The pro forma financial information shall explain the basis on which the pro forma financial information is prepared.  | 1.1.c.ii   |   |
|  |  |   |
| The accounting treatment applied to adjustments should be presented and prepared in a form consistent with the accounting policies adopted by the issuer in its last or next published financial statements. | 2.1  | 25  |
|  |  |   |
| Pro forma adjustments must be clearly shown and explained, with the source and an explanation for each adjustment.   | 1.1.c.iii, 2.3.a   |   |
|  |  |   |
| In respect of a pro forma profit and loss statement, the adjustments must be clearly identified as to those expected to have a continuing impact on the issuer and those which are not.                      | 1.1.c.iv   |   |
|  |  |   |

|  | <b>Annex 20 of Commission Delegated Regulation (EU) 2019/980</b> | <b>ESMA Guidelines on Disclosure Requirements under the Prospectus Regulation</b> |
|--|--|---|
| Pro forma adjustments must present all significant effects directly attributable to the transaction.   | 2.3.b  | 24  |
|  |  |   |
| “Directly attributable to transactions”. Pro forma information should only reflect matters that are an integral part of the transactions which are described in the prospectus. In particular, pro forma financial information should not include adjustments which are dependent on actions to be taken once the current transactions have been completed, even where such actions are central to the issuer’s purpose in entering into the transactions.   |  |   |
|  |  |   |
| Pro forma adjustments must be factually supportable.   | 2.3.c  |   |
|  |  |   |
| “Factually supportable”. The nature of the facts supporting an adjustment will vary according to the circumstances. Nevertheless, facts are expected to be capable of some reasonable degree of objective determination. Support might typically be provided by published accounts, management accounts, other financial information and valuations contained in the document, purchase and sale agreements and other agreements to the transactions covered by the prospectus. For instance in relation to management accounts, the interim figures for an undertaking being acquired may be derived from the consolidation schedules underlying that undertaking’s interim statements. |  | 24  |

## Appendix 2: Other Regulatory Provisions Relevant to the Preparers of Pro Forma Financial Information

|  | Annex 20 of Commission Delegated Regulation (EU) 2019/980 | ESMA Guidelines on Disclosure Requirements under the Prospectus Regulation |
|--|---|--|
| <p>'significant gross change' means a variation of more than 25 % to one or more indicators of the size of the issuer's business.</p> <p>Other indicators of size can be applied by the issuer especially where the stated indicators of size produce an anomalous result or are inappropriate to the specific industry of the issuer, in these cases the issuers should address these anomalies by agreement of the competent authority. The appropriate indicators of size should refer to figures from the issuer's last or next published annual financial statements.</p> | Article 1.e   | 18   |
|  |   |  |
| Pro forma financial information should be identified as such in order to distinguish it from historical financial information.   | 2.1   |  |
|  |   |  |
| Pro forma financial information shall include an introduction setting out the purpose for which the pro forma financial information has been prepared,   | 1.1.a.i   |  |

|  | <b>Annex 20 of Commission Delegated Regulation (EU) 2019/980</b> | <b>ESMA Guidelines on Disclosure Requirements under the Prospectus Regulation</b> |
|--|--|---|
| including a description of the transaction or significant commitment and the businesses or entities involved.  |  |   |
|  |  |   |
| The introduction must state the period or date to which the pro forma financial information refers.  | 1.1.a.ii   |   |
|  |  |   |
| The introduction must include an explanation illustrating the impact of the transaction as if the transaction had been undertaken at an earlier date.                                    | 1.1.a.iii  |   |
|  |  |   |
| The introduction must state that, because of its nature, it addresses a hypothetical situation and, therefore, may not represent the company's actual financial position or results.     | 1.1.a.iii  |   |
|  |  |   |
| In order to present pro forma financial information, a balance sheet and/or profit and loss account, and accompanying explanatory notes, depending on the circumstances may be included. | 1.1.b  |   |
|  |  |   |

|  | <b>Annex 20 of Commission Delegated Regulation (EU) 2019/980</b> | <b>ESMA Guidelines on Disclosure Requirements under the Prospectus Regulation</b> |
|--|--|---|
| Where applicable the financial information and interim financial information of the (or to be) acquired businesses or entities must be included in the prospectus.   | 1.1.d  |   |
| Pro forma information may only be published in respect of:<br><br>a) the last completed financial period; and/or<br>b) the most recent interim period for which relevant unadjusted information has been or will be published or are included in the registration document/prospectus.   | 2.2  | 20  |
| The most recently completed financial period: ESMA considers that this expression refers to the last full financial year (normally 12 months) and not an interim period.<br><br>The most recent interim period for which relevant unadjusted information has been or will be published or is being published in the same document: ESMA considers that the reference made to the relevant unadjusted information in this letter c) refers to the statutory interim financial information that will normally be half-yearly financial information (it could also refer to quarterly financial information as long as it has been prepared with the same level of quality and comfort as the half yearly information). This interim information will normally be the one that has already been published by the issuer (for example to comply with the requirements under the Transparency Directive) or is being published in the prospectus where the pro forma information is being provided. |  | 21  |

|   | <b>Annex 20 of Commission Delegated Regulation (EU) 2019/980</b> | <b>ESMA Guidelines on Disclosure Requirements under the Prospectus Regulation</b> |
|---|--|---|
|   |  |   |
| Pro forma financial information shall include a report prepared by independent accountants or auditors stating that in their opinion: (a) the pro forma financial information has been properly compiled on the basis stated; (b) that the basis referred to in (a) is consistent with the accounting policies of the issuer. | Section 3  | 25  |



## Appendix 3: Examples of Engagement Letter Clauses

*The examples of engagement letter clauses are intended for consideration in the context of a public reporting engagement on pro forma financial information. They should be tailored to the specific circumstances and supplemented by such other clauses as are relevant and appropriate.*

### **Financial information upon which the report is to be given**

The [investment circular] will include a pro forma [balance sheet/profit and loss account] together with a description of the basis of preparation (including the accounting policies used) and supporting notes to illustrate how the transaction might have affected the financial information of the company had the transaction been undertaken at the beginning of the period[s] concerned or as at the date[s] stated (the “pro forma financial information”).

### **Responsibilities**

The pro forma financial information, which will be the responsibility solely of the directors, will be prepared for illustrative purposes only. This is required to be prepared in accordance with Sections 1 to 2 of Annex 20 of Commission Delegated Regulation (EU) 2019/980 supplementing Regulation (EU) 2017/1129.

It is our responsibility to form an opinion as to whether the pro forma financial information has been properly compiled on the basis stated and that such basis is consistent with the accounting policies of ABC plc.

If the results of our work are satisfactory, and having regard to the requirements of Section 3 of Annex 20 of Commission Delegated Regulation (EU) 2019/980 supplementing Regulation (EU) 2017/1129, we shall prepare a report on the pro forma financial information for inclusion in the [describe document]. An illustration of the form of our report is attached.

### **Scope of work**

Our work will be undertaken in accordance with Standard for Investment Reporting Ireland (SIR (Ireland)) 4000 “Investment Reporting Standards Applicable to Public Reporting Engagements on Pro Forma Financial Information” issued by the Irish Auditing and Accounting Supervisory Authority and will be subject to the limitations described therein.

We draw your attention in particular to paragraph 59 of SIR (Ireland) 4000 which would preclude us from expressing any opinion if the directors have not complied with the regulatory requirements set out in the Appendices of that SIR (Ireland).

## Appendix 4: Examples of Management Representation Letter Clauses

*The following are examples of management representation letter clauses relating to a report on pro forma financial information, issued pursuant to CDR (EU) No 2019/980, which may be obtained from the issuer. Alternatively, they may form the basis for a board minute.*

### Introduction

We refer to the pro forma financial information set out in Part [...] of the [investment circular] dated...to be issued in connection with [...] dated. We acknowledge that we are solely responsible for the pro forma financial information and confirm on behalf of the Directors of the Company to the best of our knowledge and belief, having made appropriate enquiries of officials of the Company [and the directors and officials of the target company], the following representations made to you in the course of your work.

### Specific representations

We acknowledge as duly appointed officials of the Company our responsibility for the pro forma financial information (which has been prepared in accordance with [Sections 1 & 2 of Annex 20 of Commission Delegated Regulation (EU) 2019/980 supplementing Regulation (EU) 2017/1129] [ESMA Guidelines on disclosure requirements under the Prospectus Regulation]);

We have considered the pro forma financial information and we confirm that, in our opinion, as required by Commission Delegated Regulation (EU) 2019/980 supplementing Regulation (EU) 2017/1129, the pro forma financial information provides investors with information about the impact of the [specify the transaction] (the “transaction”) by illustrating how that transaction might have affected the [assets and liabilities] [and] [earnings] of the issuer, had the transaction been undertaken at the commencement of the period being reported on or at the date reported.

Furthermore, we confirm that, in our opinion, the pro forma financial information is not misleading.

We have considered the adjustments included in the pro forma financial information. We confirm that, in our opinion, the pro forma financial information includes all appropriate adjustments permitted by Sections 1 to 2 of Annex 20 of Commission Delegated Regulation (EU) 2019/980 supplementing Regulation (EU) 2017/1129, of which we are aware, necessary to give effect to the transaction as if the transaction had been undertaken [at the date reported on] [at the commencement of the period being reported on].

[We have considered those adjustments which have been omitted by virtue of not being permitted to be included by Sections 1 to 2 of Annex 20 of Commission Delegated Regulation (EU) 2019/980 supplementing Regulation (EU) 2017/1129 and the disclosures made in respect thereof. In our opinion the omission of these adjustments does not render the pro forma financial information misleading.]

*[Where the accounting policies in the issuer’s next financial statements are used. The accounting policies used in compiling the pro forma financial information are those to be adopted in the Company’s next financial statements, and all changes necessary to reflect those policies have been made.]*

*[Any specific representations relating to information included in the pro forma financial information.]*

## Appendix 5: Illustrative Report

### REPORT ON PRO FORMA FINANCIAL INFORMATION IN ACCORDANCE WITH COMMISSION DELEGATED REGULATION (EU) 2019/980 OR THE LISTING RULES

*Date*

*Reporting accountant's address*

*Addressees, as agreed between the parties in the engagement letter*

Dear Sirs,

**[ABC plc]**

We report on the pro forma [financial information] (the “pro forma financial information”) set out in Part [...] of the [investment circular] dated.....

#### **Opinion**

In our opinion:

- a. the pro forma financial information has been properly compiled on the basis stated; and
- b. such basis is consistent with the accounting policies of ABC plc.

#### **Responsibilities**

It is the responsibility of the directors of ABC plc to prepare the pro forma financial information in accordance with [Sections 1 & 2 of Annex 20 of Commission Delegated Regulation (EU) 2019/980 supplementing Regulation (EU) 2017/1129].

It is our responsibility to form an opinion, as required by [Section 3 of Annex 20 of Commission Delegated Regulation (EU) 2019/980 supplementing Regulation (EU) 2017/1129], as to the proper compilation of the pro forma financial information and to report that opinion to you.

[Insert where an audit or other opinion has been expressed on the financial statements of the [Issuer/Company] [Target/Business being disposed of] upon which the pro forma financial information is based by a firm other than the reporting accountant, or where such information is unaudited:

No reports or opinions have been made by us on any financial information used in the compilation of the pro forma financial information. In providing this opinion we are not providing any assurance on any source financial information on which the pro forma financial information is based beyond the above opinion.]

[Insert where the reporting accountant has provided an audit or other opinion on the financial statements of the [Issuer/Company] [Target/Business being disposed of] upon which the pro forma financial information is based: In providing this opinion we are not updating or refreshing any reports or opinions previously made by us on any financial information used in the compilation of the pro forma financial

information, nor do we accept responsibility for such reports or opinions beyond that owed to those to whom those reports or opinions were addressed at the date of their issue.]

### **Basis of preparation**

The pro forma financial information has been prepared on the basis described [in note x], for illustrative purposes only, to provide information about how the [transaction] might have affected the financial information presented on the basis of the accounting policies [adopted/to be adopted] by ABC plc in preparing the financial statements for the period [ended/ending] [date]. This report is required by [Relevant Regulation] and is given for the purpose of complying with that [Relevant Regulation] and for no other purpose.

### **Basis of Opinion**

We conducted our work in accordance with the Standards for Investment Reporting (Ireland) issued by the Irish Auditing and Accounting Supervisory Authority in Ireland. We are independent of the [Company] and the [Target] [and others where relevant] in accordance with relevant ethical requirements. [In Ireland this is the relevant ethical code of the recognised accountancy body of which the reporting accountant is a member.] [set out relevant ethical requirements where the engagements does not involve an investment circular prepared for issue in connection with a securities transaction governed wholly or in part by the laws and regulations of Ireland.] as applied to Investment Circular Reporting Engagements, and we have fulfilled our other ethical responsibilities in accordance with these requirements.

The work that we performed for the purpose of making this report, which involved no independent examination of any of the underlying financial information, consisted primarily of comparing the unadjusted financial information with the source documents, considering the evidence supporting the adjustments and discussing the Pro forma financial information with the directors of ABC plc.

We planned and performed our work so as to obtain the information and explanations we considered necessary in order to provide us with reasonable assurance that the Pro forma financial information has been properly compiled on the basis stated and that such basis is consistent with the accounting policies of ABC plc.

[This paragraph may be omitted if the document is not to be distributed outside [Ireland] Our work has not been carried out in accordance with auditing or other standards and practices generally accepted in [jurisdictions] and accordingly should not be relied upon as if it had been carried out in accordance with those standards and practices.]

### **Declaration<sup>13</sup>**

For the purposes of [item xx of Annex xx of the Commission Delegated Regulation (EU) 2019/980 supplementing Regulation (EU) 2017/1129] we are responsible for [this report as part] [the following part(s): specify parts] of the [prospectus] [registration document] [Information Document] and declare that, to the best of our knowledge, the information contained in [this report] [those parts] is in accordance with the facts and that [the report] [those parts] make[s] no omission likely to affect [its][their] import. This declaration is included in the [prospectus] [registration document] [Information Document] in

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<sup>13</sup> This declaration is a requirement of CDR (EU) No 2019/980 and is appropriate for inclusion when the report is included in a Prospectus, see Appendix 1 of SIR (Ireland) 1000. It is also appropriate for inclusion in an information document under Schedule Two of the Euronext Growth Markets Rule Book – Part II.

compliance with [item xx of Annex xx of the Commission Delegated Regulation (EU) 2019/980 supplementing Regulation (EU) 2017/1129].

Yours faithfully

*Reporting accountant*



**IAASA**

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Supervisory Authority

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