The City of London Law Society

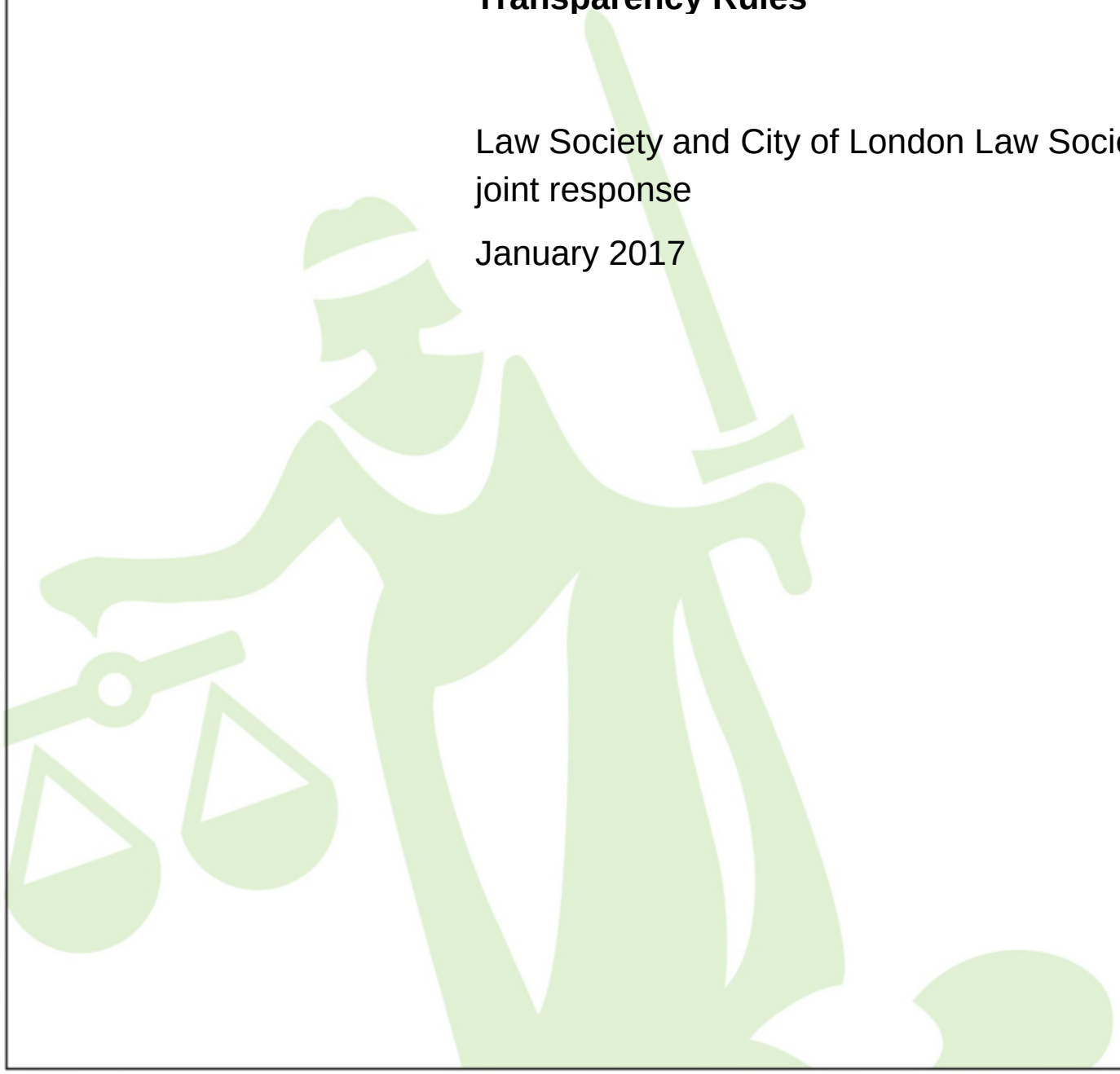
The Law Society

FCA Quarterly Consultation DP16/39

Changes to the requirements in the Disclosure Guidance and Transparency Rules

Law Society and City of London Law Society joint response

January 2017



The views set out in this paper have been prepared by a Joint Working Party of the Company Law Committees of the City of London Law Society (**CLLS**) and the Law Society of England and Wales (the **Law Society**).

The CLLS represents approximately 17,000 City lawyers through individual and corporate membership, including some of the largest international law firms in the world. These law firms advise a variety of clients from multinational companies and financial institutions to Government departments, often in relation to complex, multijurisdictional legal issues. The CLLS responds to a variety of consultations on issues of importance to its members through its 19 specialist committees.

The Law Society is the professional body for solicitors in England and Wales, representing over 160,000 registered legal practitioners. It represents the profession to Parliament, Government and regulatory bodies in both the domestic and European arena and has a public interest in the reform of the law.

The Joint Working Party is made up of senior and specialist corporate lawyers from both the CLLS and the Law Society who have a particular focus on issues relating to capital markets.

Introduction

We set out our responses to the list of questions in the FCA quarterly consultation paper 16/39 which proposes new rules to Chapter 6 of the Disclosure Guidance and Transparency Rules sourcebook (**DTRs**) to enable the FCA to comply with the requirements in Articles 7 and 9 of the regulatory technical standards on the Transparency Directive (2004/109/EC) (**RTS**) concerning the European electronic access point.

Q6.1: Do you agree with the proposal to require issuers to supply their LEI when they file regulated information with the FCA (DTR 6.2.2AR)?

Yes.

We note that Articles 7 and 9 of the RTS must apply from 1 January 2017 and that, in the consultation paper, the FCA encourages issuers to comply with the proposed rule from that date, but it is not clear when the proposed new rules in Chapter 6 of the DTRs would take effect.

We suggest that, when the FCA determines a possible implementation date, it considers the limited amount of time that issuers have had to adjust their systems and controls in order to comply with the new requirements. In particular, we understand that the process of obtaining an LEI may not always be quick or straightforward for issuers, particularly if they are based overseas. Consequently, it would be helpful if the FCA confirmed that an issuer would not be prevented from complying with its obligation to disclose regulatory information if it had not been reasonably practicable for the issuer to obtain an LEI before doing so.

Q6.2: Do you agree with the proposal to require issuers to classify regulated information using the classes and sub-classes set out in Section B of the RTS Annex when they file regulated information with the FCA (DTR 6.2.2AR and DTR 6 Annex 1R)?

Yes. However we note that paragraph 3.1 of Section B of the RTS Annex merely provides for information disclosed in accordance with a requirement under the laws, regulations or administrative provisions of a member state adopted under Article 3(1) of the Transparency Directive. So that would not of itself not require disclosure of any notifications required under the Market Abuse Regulation ("**MAR**") which are not covered by the classes in the preceding paragraphs (for example, disclosures of buy-back or

stabilisation transactions), given that MAR has direct application in member states and was not adopted under Article 3(1) of the Transparency Directive.

We see that in the proposed DTR 6 Annex 1R the FCA has amended para 3.1 of Section B of the RTS Annex to refer to MAR. Does the FCA therefore consider that it has discretion to make amendments to the list? If so, we would suggest that paragraph 3.1 is amended to read:

"All information not falling within the sub-classes set out in points 1.1 to 1.3 and in points 2.1 to 2.6, but which the issuer, or any other person who has applied for the admission of securities to trading on a regulated market without the issuer's consent, has disclosed under the Market Abuse Regulation or under the LRs or DTRs".

Q6.3: Do you agree with the proposal to require issuers to notify all relevant classes and sub-classes from the annex to DTR6 when classifying regulated information (DTR 6.2.2BR and DTR 6 Annex 1R)?

Yes.

Q6.4: Do you agree with the proposal to apply DTR 6.2.2AR and DTR 6.2.2BR to those listed companies that are required by the listing rules to comply with DTR 6 and to those issuers of securitized derivatives who, pursuant to LR 19.4.11BR, we consider should comply with DTR 6?

Yes.

Contact

If you have any questions in relation to this response, please contact Richard Ufland (+44 207 296 5712) or richard.ufland@hoganlovells.com . We would be happy to discuss the above points with you.