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FSMA\_2013\_16 of 29 August 2013 (update 12 November 2018)

## eCorporate: transmission of documents

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### Scope:

Companies whose securities are admitted to trading on a regulated market and whose home Member State is Belgium, as part of their obligations with respect to periodic information and certain continuous disclosures as well as companies whose securities are admitted to trading on Alternext.

### Summary/Objectives:

The aims of this circular are as follows:

- present the secure platform (eCorporate), its objectives and the guidelines for accessing it;
- identify the information (reports, announcements, etc.) to be transmitted to the FSMA through this platform, and the guidelines for transmission;
- present the availability on the platform of a reporting form that includes specific information on the issuer;
- present the role of the platform in conjunction with existing communication tools such as the [info.fin@fsma.be](mailto:info.fin@fsma.be) and [trp.fin@fsma.be](mailto:trp.fin@fsma.be) central mailboxes.

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## 1. INTRODUCTION

The FSMA provides supervised companies with a secure communication platform (portal) that allows it to exchange information with the companies on an ongoing basis. The portal (eCorporate) is a tool for managing the information requested by the FSMA as well as a permanent interface for access to this information by both the FSMA and the companies themselves, and by their auditor (see sections 2.4. and 3.2.4.).

This circular aims among other things to identify the documents which the FSMA must obtain for the purposes of its supervision of listed companies (annex FSMA-2013-16-1) and which must be transmitted to the FSMA through this platform.

It should be noted that only final documents should be so transmitted. Any draft documents for discussion with the FSMA must always be transmitted by regular email. This implies in particular that documents that are subject to ex ante supervision should always be transmitted to the staff member in charge of the dossier.

In this circular, the FSMA requires the above-mentioned issuers to:

- communicate to the FSMA the final documents identified in annex FSMA\_2013\_16-1 through the eCorporate platform;
- validate and, where applicable, communicate any update to the data included in the reporting form.

## 2. USING ECORPORATE

### 2.1. Company Administrator

Responsibility for managing and accessing information exchanged between the company and the FSMA is entrusted to a company administrator to be designated by the company.

The choice of this person is essential, as the company administrator has access to all and any information on the company that is available on eCorporate.

In addition, the company administrator can decide to grant global or limited access to that information to other employees or (third) persons acting for the company.

In this context, each company to which this circular is addressed is required to communicate by email to [eCorporate.fin@fsma.be](mailto:eCorporate.fin@fsma.be), the details of the company administrator (surname, first name, email address, and function within the company).

An electronic version of the eCorporate user's guide and the activation code with which to initiate the company's access to the platform will be sent by the FSMA to the company administrator upon receipt of said administrator's details.

A similar procedure applies to auditors with a view to organizing their access to the profile of the company or companies in which they are mandated.

## 2.2. Certificate

Each and every user who wishes to access eCorporate must have their very own personal certificate. To this end, the following solutions are proposed:

- A personal certificate issued by an accredited third party. Supported certificates are:
  - o Personal Globalsign 3 (for more information, please visit <http://www.globalsign.be>);
  - o Isabel (for more information, please visit <http://www.isabel.be>);
- an eID, i.e. an electronic identity card (for more information, please visit <http://eid.belgium.be>).

## 2.3. User's guide

The specific arrangements and operation of the eCorporate platform are explained in a user's guide that is available in French and Dutch on the FSMA website.

## 2.4. Control Panel

Through this general display, eCorporate offers each issuer a clear overview of its reporting obligations together with the transmission deadlines. Each issuer is thus permanently able to verify that all of its reporting obligations have duly been fulfilled within the applicable deadlines. The auditors also have access to this display, on which they can also see whether they have been requested to provide the FSMA with a periodic or special report, and where they can upload the requested document by the imposed deadline.

## 2.5. Reporting form

The reporting form available on eCorporate shows, in addition to the descriptive data, the list of documents expected by the FSMA and their frequency. The frequency is specific for each issuer.

Each issuer's specific reporting requirements are determined according to the various parameters which the FSMA introduced in eCorporate. Such parameters follow inter alia from the criteria used in the Transparency Directive. These parameters are as follows:

- The type of issuer (Belgian or foreign, listed in Belgium or abroad, on a regulated market or on Alternext);
- The type of financial instruments (shares, bonds with a face value less than or greater than or equal to € 50,000 or € 100,000);
- The closing date of the financial year;
- The date of the ordinary general meeting.

These parameters can be consulted in eCorporate under "reporting parameters" (see also the user's guide). Issuers are required to verify these parameters and, where appropriate, inform the FSMA by email to [eCorporate.fin@fsma.be](mailto:eCorporate.fin@fsma.be) of any errors or necessary changes.

## 3. INFORMATION REQUIRED, FREQUENCIES AND TRANSMISSION DETAILS

### 3.1. List of documents

The list of documents which issuers must transmit through eCorporate is shown in annex FSMA\_2013\_16-1.

Any new documents that the FSMA wants to receive through eCorporate will be added to the above-mentioned annex, which will systematically be adapted on the FSMA website. Issuers will be notified via email sent to the company administrator; they will also be informed in this manner whenever this circular is modified.

The list of documents which is shown in the annex is structured in different folders according to the type of information: regulated or not, periodic or occasional. Where appropriate, the legal basis for each document and its frequency are also indicated in the table. The ultimate reporting deadlines are presented in the eCorporate Control Panel.

### 3.2. Details on the required documents

Below is a brief explanation on the documents listed in annex to this circular. For a detailed review of the obligations underlying the preparation and publication of these documents, please refer to Circular FSMA\_2012\_01 "Verplichtingen van op een gereglemeerde markt genoteerde emittenten" / "Obligations incombant aux émetteurs cotés sur un marché réglementé" (hereinafter "Circular FSMA\_2012\_01"), Circular FSMA\_2011\_07 "Verkrijging van eigen aandelen of certificaten door genoteerde vennootschappen of vennootschappen waarvan de effecten zijn toegelaten tot de verhandeling op bepaalde MTF's" / "Acquisition d'actions ou de certificats propres par les sociétés cotées ou les sociétés dont les titres sont admis aux négociations sur certains MTF" (hereinafter "Circular FSMA\_2011\_07") and the practical guide FSMA\_2011\_08 "Transparantiewetgeving (Titel II van de wet van 2 mei 2007 en koninklijk besluit van 14 februari 2008)" / "La réglementation en matière de transparence (Titre II de la loi du 2 mai 2007 et arrêté royal du 14 février 2008)". These texts are all available on the FSMA's website [www.fsma.be](http://www.fsma.be).

#### 3.2.1. Regulated periodic reporting from listed companies

##### 3.2.1.1. *Annual financial report*

The annual financial report includes, in addition to the management report and supervisory report, the issuer's audited financial statements (on a non-consolidated and, where applicable, consolidated basis) (see Circular FSMA\_2012\_01, section 5.2.1.).

##### 3.2.1.2. *Annual announcement*

The annual announcement is optional. Therefore, such annual announcement must only be uploaded if the issuer chooses to publish one. For more information on this, see Circular FSMA\_2012\_01, section 5.2.2.

##### 3.2.1.3. *Half-yearly financial report*

See Circular FSMA\_2012\_01, section 5.2.3. See also 3.4.2. below, if publication of this report is accompanied by a separate press release. This heading is optional for issuers exclusively of debt instruments admitted to trading on Alternext.

##### 3.2.1.4. *Quarterly information*

The quarterly information is optional. Therefore, such information must only be uploaded if the issuer chooses to publish it.

### *3.2.1.5. Report on payments to governments*

This heading is visible to all issuers whose securities are admitted to trading on a regulated market. For the content, see Circular FSMA\_2012\_01, section 5.2.4.

### *3.2.1.6. Notice of ordinary general meeting*

This heading may only be used by, and is only visible to, issuers of shares. Not only the notice proper must be uploaded under this heading, but also, as attachments, any and all documents that accompany it: special reports (by the board of directors or the auditor), proxy and postal voting forms, curriculum vitae of prospective directors, etc. See also in this respect Circular FSMA\_2012\_01, sections 3.2.3. to 3.2.6. and 6.2.3.

### *3.2.1.7. Minutes of general meetings*

This heading may only be used by, and is only visible to, Belgian issuers whose shares are admitted to trading on a regulated market. For the content, see Circular FSMA\_2012\_01, section 6.2.5.

### *3.2.1.8. Sustainability report*

This heading may only be used by issuers that are required to draw up a non-financial statement and decide to include it in a separate report from the annual report.

## 3.2.2. Regulated ongoing reporting by listed companies

### *3.2.2.1. Announcement of dividend or payment of interest*

This heading is not only for the announcement of the payment of a dividend or coupon (interest, capital, liquidation, etc.), but also for any publication made pursuant to Article 7 of the Royal Decree of 14 November 2007 other than a notice convening an ordinary or extraordinary general meeting, for which separate headings are provided. See FSMA\_2012\_01, section 3.2.5.

### *3.2.2.2. Inside information*

The issuer should upload under this heading any occasional press release intended to disclose a piece of information considered by the issuer to be regulated information/inside information on the grounds that it is inside information. Conversely, an occasional announcement that does not contain any inside information should be uploaded under "Other occasional announcement" (see 3.2.3.1. below). With regard to inside information, see also Circular FSMA\_2012\_01, Section 4.2.

### *3.2.2.3. Announcement of a share repurchase*

This heading may only be used by, and is only visible to, Belgian issuers of shares. The issuer should upload under this heading any press release with which the issuer complies with the publication requirements under Articles 206 and 207 of the Royal Decree implementing the Code on companies. See also in this respect Circular FSMA\_2011\_07 (section 5.2.3.).

### *3.2.2.4. Announcement of a notification of major shareholding*

This heading may only be used by, and is only visible to, issuers of shares. The issuer should upload under this heading any press release through which the issuer publishes the notifications on major shareholdings which it has received from a third party pursuant to the Law of 2 May 2007 on the

reporting of significant interests. Where the issuer chooses to publish such notifications as such i.e. as he has received them from the persons required to notify as annexes to the press release, the notifications should be uploaded as attachments to the press release. See also in this respect Circular FSMA\_2011\_08 (chapter 4).

#### *3.2.2.5. Announcement of a notification of major shareholding (own shares)*

This heading may only be used by, and is only visible to, issuers of shares. The issuer should upload under this heading any press release in which the issuer publishes the notifications on major shareholdings which it has received following a repurchase of its own shares.

#### *3.2.2.6. Announcement of a change in the denominator or in the thresholds*

This heading may only be used by, and is only visible to, issuers of shares. This heading is for any press release through which the issuer publishes a change in the denominator or in the thresholds provided for in the articles of association pursuant to Article 23 of the above-mentioned Royal Decree of 14 February 2008. See also in this respect the practical guide FSMA\_2011\_08 (chapter 4).

#### *3.2.2.7. Notice of extraordinary general meeting*

Similarly to what applies to notices of ordinary general meetings, not only the notice proper must be uploaded under this heading, but also, as attachments, any and all documents that accompany it: special reports (by the board of directors or the auditor), proxy and postal voting forms, etc. See also in this respect circular FSMA\_2012\_01, sections 3.2.3. to 3.2.6. and 6.2.3.

#### *3.2.2.8. Minutes of extraordinary general meetings*

This heading may only be used by, and is only visible to, Belgian issuers whose shares are admitted to trading on a regulated market. For the content, see Circular FSMA\_2012\_01, section 6.2.5.

#### *3.2.2.9. Change in the rights of holders of securities*

Issuers of shares should use this heading in the case of changes in the rights attaching to the various classes of shares. Issuers of securities, other than shares, should use this heading in the case of changes in the rights of holders of securities other than shares (see Circular FSMA\_2012\_01, section 6.2.2.).

#### *3.2.2.10. Home Member State*

This heading is visible to all issuers whose securities are admitted to trading on a regulated market. This heading has to be used for information regarding the home Member State (see Circular FSMA\_2011\_08, section 6.2.1.).

#### *3.2.2.11. Special report drawn up in relation to authorized capital*

This heading may only be used by, and is only visible to, Belgian issuers whose shares are admitted to trading on a regulated market. The issuer should upload under this heading any special report drawn up by the board of directors pursuant to the Code on Companies where use is made of the authorized capital. Any other special report should be uploaded as an annex to the notice convening a general meeting (see sections 3.2.1.6. and 3.2.2.7. above).

### 3.2.3. Non-regulated reporting by listed companies

#### 3.2.3.1. *Other occasional announcements*

This heading allows issuers who so wish to upload occasional announcements which they publish but do not regard as regulated information because they consider that they do not include any inside information. Therefore the use of this heading is optional. It allows issuers also to upload more commercially-oriented announcements whose content is not considered by the issuer to be likely to have a significant effect on the price of the issuer's financial instruments.

#### 3.2.3.2. *Updates pursuant to Article 74 Takeover Law*

This heading may only be used by, and is only visible to, Belgian issuers of shares. This heading is intended for the publication made by the issuer (in any manner other than the annual financial report) following any notifications by the securities holders concerned pursuant to Article 74, § 8, of the Takeover Law. Therefore this heading will only be used if an initial notification was made by such persons pursuant to Article 74 of the Takeover Law when it enters into force and if the previously reported situation has changed in the course of the financial year. Since such update is to be made annually by 1 September at the latest, that is, the deadline which appears in eCorporate.

#### 3.2.3.3. *Articles of association*

Issuers must ensure that the latest version of their consolidated articles of association is permanently available under this heading. Therefore the issuers concerned will have to upload their consolidated articles of association again every time they are modified (even if the change is minimal or purely formal).

#### 3.2.3.4. *Corporate Governance charter*

This heading may only be used by, and is only visible to, Belgian issuers whose shares are admitted to trading on a regulated market. Issuers that implement the Code on Corporate Governance must ensure that the latest version of their Corporate Governance charter is permanently available under this heading. Therefore issuers will have to upload their Corporate Governance charter again every time it is modified.

#### 3.2.3.5. *Reporting on share repurchases*

This heading may only be used by, and is only visible to, Belgian issuers of shares. Reporting on share repurchases is twofold. The first component is the announcement on the share repurchase proper, which must be uploaded under a separate heading (see section 3.2.2.3. above). In addition, issuers must upload under "Reporting on share repurchases" the documents intended for the FSMA, namely the principle decision on the share repurchase, the notification of the effective implementation of the programme, and, where appropriate, the standard form made available by the FSMA. See also in this respect Circular FSMA\_2011\_07 (section 5.2.3.).

### 3.2.4. Auditor's reporting

This heading is intended for the special or periodic reports drawn up by the auditor pursuant to Article 34 of the Law of 2 August 2002 at the request of the FSMA. These documents are to be uploaded by the auditor. The auditor also has access to all of the documents transmitted by the issuer to the FSMA via eCorporate.



### 3.3. Transmission frequencies

Among the documents to be submitted to the FSMA through the eCorporate platform, the following distinctions should be established according to the transmission frequency:

- documents to be communicated periodically (on an annual or half-yearly basis);
- documents to be communicated occasionally, usually upon the occurrence of an event to be reported to the FSMA (e.g. inside information);
- documents to be communicated on an ongoing basis, i.e. documents for which any update (whether on a periodic or a one-off basis) must immediately be reported to the FSMA. The latest version of these documents must be permanently available via eCorporate. Thus the issuer must only upload these documents if they have been modified.

When using eCorporate for the first time, issuers should upload the latest version of the documents whose frequency is "on an ongoing basis" (even where no changes have been made since the last transmission prior to eCorporate), so as to centralize as quickly as possible on the platform all of the documents that are relevant for each issuer.

The frequencies stated in eCorporate for listed companies are as follows:

Frequency	Code	Description
Periodically on the basis of the calendar year	Y	Annually
Periodically on the basis of the closing date of the financial year	SBSD (Semestrial Balance Sheet Date)	Semi-annually (at the end of each of the two financial half-years)
	YBSD (Year Balance Sheet Date)	Annually (at the end of the financial year)
	S1BSD	Annually (at the end of the first financial half-year)
	Q1BSD	Annually (at the end of the first financial quarter)
	Q3BSD	Annually (at the end of the third financial quarter)
Periodically on the basis of a specific reference date determined by the issuer	OGM (Ordinary General Meeting)	Annually (the submission deadline will be determined by reference to the date of the ordinary general meeting)

Ongoing	ONGOING	Document whose latest update (whether on a periodic or a one-off basis) should be permanently available to the FSMA on eCorporate
Occasional	OCC	documents to be communicated occasionally (usually upon the occurrence of an event to be reported to the FSMA)

### 3.4. Procedures for transmission

#### 3.4.1. Language versions

When uploading onto eCorporate information that exists in several languages, the issuer must upload every language version in which the document and any attachments have been drawn up. When uploading, the issuer will have to select, for any document and any annex, a code language (Dutch, French or English). eCorporate makes it possible to upload several language versions of a main document and its annexes without generating multiple reporting lines in the Control Panel. The Control Panel will only show a single line of reporting per type of document uploaded (inside information, interim financial report, etc.), irrespective of the number of language versions that have been uploaded.

#### 3.4.2. Information accompanied by a press release and annexes

Where information that is being published is simultaneously the subject of a press release, the issuer should group the various pieces of information relating to the same disclosure requirement: to do so, please upload the press release as an annex to the information in question, which in turn shall be identified as the main document (see also the eCorporate user's guide). Thus, for example, if an issuer's publication of the half-yearly financial report is also the subject of a separate press release, that press release should be uploaded as an annex to the half-yearly financial report. This procedure ensures for the future that all documents relating to a specific disclosure requirement are saved together and can remain together for purposes of research and consultation.

The upload procedure of any document mentioned in the annex to this circular makes it possible to attach one or more annexes to the main document.

## 4. ECORPORATE AND THE EXISTING REPORTING OBLIGATIONS

### 4.1. Reporting under Article 42 of the Royal Decree of 14 November 2007

Under Article 42 of the Royal Decree of 14 November 2007 (hereinafter "RD"), issuers are required to transmit to the FSMA, without delay and no later than the time of publication, all information referred to by the RD. In Circular FSMA\_2012\_01, the FSMA asks issuers to provide this information by email to [info.fin@fsma.be](mailto:info.fin@fsma.be).

Information thus emailed is used by the FSMA's Financial Market Surveillance cell (SUR) to verify that the information disclosed by issuers is disseminated through the channels determined by the RD. The SUR cell may require the market operator to suspend trading until the information is disseminated

through the appropriate means. In this sense, it ensures among other things that the information is reflected by at least one of the leading providers of online information in Belgium. It also checks whether the information contained in the press releases provides sufficient information to the markets.

In this context, it is important that any and all information transmitted by issuers to news agencies and any other media, as well as via investors' or shareholders' mailing lists, is received by the FSMA in the same manner as by the market. Creating eCorporate therefore will not fully replace transmission to [info.fin@fsma.be](mailto:info.fin@fsma.be).

Issuers are therefore requested to keep sending simultaneously to [info.fin@fsma.be](mailto:info.fin@fsma.be) and in copy (Cc) to the FSMA staff member in charge of their dossier any and all information which is sent to news agencies, newspapers, other media and/or investors' mailing lists.

The issuer shall upload onto eCorporate any information thus disclosed, no later than upon publication, pursuant to Article 42 of the RD. In addition, in order to remedy any discrepancy in the date where publishing the information and uploading it onto eCorporate are not simultaneous (e.g. in the case of rectification of erroneous upload), the date of publication of the information shall be specified upon uploading.

The annual brochure (annual report) shall always be sent in hard copy (two copies per language version) by ordinary mail, in accordance with section 8.2.2. of FSMA\_2012\_01.

Finally, it should be noted that only final documents should be so uploaded onto eCorporate. Any draft documents for discussion with the FSMA must always be transmitted by regular email. This implies in particular that documents that are subject to ex ante supervision should always be transmitted to the staff member in charge of the dossier, either by email or by ordinary mail, according to the applicable procedures.

#### 4.2. Notifications of major shareholdings made pursuant to the Law of 2 May 2007

Notifications of major shareholdings made pursuant to the Law of 2 May 2007 shall continue to be transmitted to the [trp.fin@fsma.be](mailto:trp.fin@fsma.be) central address for registration in the FSMA database.

On the other hand, announcements prepared by issuers themselves to communicate that a notification of major shareholding has been received or that a change has been made in data such as the denominator, the thresholds, etc. shall be uploaded onto eCorporate.

#### ANNEX:

- [FSMA\\_2013\\_16-1 / LIST OF DOCUMENTS](#)