

## **Indicative list of financial instruments that are subject to notification requirements according to Article 13(1b) of the revised Transparency Directive**

1. Article 13(1b) of Directive 2004/109/EC already considers the following to be financial instruments, provided they satisfy any of the conditions set out in points (a) or (b) of the first subparagraph of Article 13(1) of said Directive:

- (a) transferable securities;
- (b) options;
- (c) futures;
- (d) swaps;
- (e) forward rate agreements;
- (f) contracts for differences; and
- (g) any other contracts or agreements with similar economic effects which may be settled physically or in cash.

2. “Options” should be read as including calls, puts or any combination thereof.

3. Furthermore, taking into account current technical developments on financial markets ESMA considers the following to be financial instruments, provided they satisfy any of the conditions set out in points (a) or (b) of the first subparagraph of Article 13(1) of Directive 2004/109/EC and reference shares to which voting rights are attached:

- (a) irrevocable convertible and exchangeable bonds referring to already issued shares;
- (b) financial instruments referenced to a basket of shares or an index and which comply with the criteria laid down in Article 4(1) of Commission Delegated Regulation (EU) 2015/761 of 17 December 2014;
- (c) warrants;
- (d) repurchase agreements;

- (e) rights to recall lent shares;
- (f) contractual buying pre-emption rights;
- (g) other conditional contracts or agreements than options and futures;
- (h) hybrid financial instruments;
- (i) combinations of financial instruments;
- (j) shareholders' agreements having Directive 2004/109/EC Article 13(1)(a) and (b) financial instruments as an underlying.

4. ESMA acknowledges that, depending on the characteristics and typology of such financial instruments, there can be overlaps within the categories referred above. In such cases notification is required under one of the categories.