

Submission Date

12/10/2022

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Additional Information

Level 1 Regulation

Prospectus Regulation 2017/1129

Topic

Public offer

Subject Matter

Prospectus exemption in connection with a takeover by means of an exchange offer

Question

What is the meaning of 'approval', as referred to in Article 1(6a), point (b), of Regulation (EU) 2017/1129? Is it an approval which follows a process similar to that envisaged in Commission Delegated Regulation (EU) 2019/980 for prospectuses, or an approval which follows the process applied by relevant national supervisory authorities under Directive 2004/25/EC?

ESMA Answer

12-10-2022

Original language

[ESMA 31-62-1258 Prospectuses Q&A nr 15.9]

Answer provided by the European Commission.

It is considered that ‘approval’ as referred to in Article 1(6a), point (b), of Regulation (EU) 2017/1129 refers to the approval process applied by the relevant supervisory authorities designated in accordance with Directive 2004/25/EC and that have the competence, where applicable, to review the offer document under that directive.

The answers clarify provisions already contained in the applicable legislation. They do not extend in any way the rights and obligations deriving from such legislation nor do they introduce any additional requirements for the concerned operators and competent authorities. The answers are merely intended to assist natural or legal persons, including competent authorities and Union institutions and bodies in clarifying the application or implementation of the relevant legal provisions. Only the Court of Justice of the European Union is competent to authoritatively interpret Union law. The views expressed in the internal Commission Decision cannot prejudice the position that the European Commission might take before the Union and national courts.