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Additional Information

Level 1 Regulation

Prospectus Regulation 2017/1129

Topic

Public offer

Subject Matter

Item 4.6 of Annex 11 of Commission Delegated Regulation (EU) 2019/980

Question

How should the requirement in item 4.6 of Annex 11 of Commission Delegated Regulation (EU) 2019/980 on the disclosure of resolutions, authorisations and approvals be interpreted?

12-07-2019

Original language

[ESMA 31-62-1258 Prospectuses Q&A nr 14.3]

It is understood that the wording 'by virtue of which the securities have been or will be created and/or issued' in item 4.6. of Annex 11 of Commission Delegated Regulation (EU) 2019/980 concerns only legal acts on the part of the issuer, i.e. general meeting resolutions and board of directors' decisions.

However, disclosure on any legal acts on the part of third parties, e. g. approvals by the central bank or competition authorities, or the fulfillment of any other external preconditions to the creation or the issuance of the securities might also be appropriate according to item 5.1 of Annex 11 Prospectus Regulation and Article 6(1) Prospectus Regulation.

If any internal resolutions, authorisations or decisions on the part of the issuer or any external preconditions on the part of third parties are pending or can be revoked, the issuer is expected to include a clear statement to that effect and an explanation of the consequences in case the required resolution, authorization, approval is not given or a precondition is not fulfilled. This information might also be required according to item 5.1.4. of Annex 11 Commission Delegated Regulation (EU) 2019/980. Certain of the abovementioned elements might also be considered as risk factors.