ESMA_QA_977

Submission Date
12/07/2019

Status: Published Answer Updated

Additional Information

Level 1 Regulation
Prospectus Regulation 2017/1129

Topic
Public offer

Subject Matter
Share option schemes (Updated 09/09/2026)

Question
Are non-transferable options covered by the Prospectus Regulation? Even if they are not, would the exercise of those options constitute an offer of the underlying shares? (Updated 09/09/2026)

ESMA Answer

09-09-2026

Original language

Non-transferable options do not fall under the Prospectus Regulation, as the Prospectus Regulation only applies to transferable securities (Article 2(a)).

As for the exercise of non-transferable options, at the time of the conversion or exercise there is no public offer within the meaning of Article 2(d) of the Prospectus Regulation since it is just the execution of a previous offer.

Where in the view of national Competent Authorities transactions are structured as options, but are in reality an offer of shares, such authorities reserve the right to re-qualify the options as an offer of shares in order to overcome any circumvention of the Prospectus Regulation. **(Updated answer 09/09/2026)**

~~12/07/2019~~

~~**Subject Matter:** Share option schemes~~

~~**Question:** Are non-transferable options covered by the Prospectus Regulation? Even if they are not, would the exercise of those options constitute an offer of the underlying shares?~~

~~**Answer:**~~

~~[ESMA31-62-1258 Prospectus Q&A 4.1]~~

~~ESMA believes that non-transferable options do not fall under the Prospectus Regulation, as the Prospectus Regulation only applies to transferable securities (Article 2(a)).~~

~~As for the exercise of non-transferable options, at the time of the conversion or exercise there is no public offer within the meaning of Article 2(d) of the Prospectus Regulation since it is just the execution of a previous offer.~~

~~Where in the view of national Competent Authorities transactions are structured as options, but are in reality an offer of shares, such authorities reserve the right to re-qualify the options as an offer of shares in order to overcome any circumvention of the Prospectus Regulation.~~