ESMA_QA_992

Submission Date
12/07/2019

Status: Answer Published

Additional Information

Level 1 Regulation
Prospectus Regulation 2017/1129

Topic
Financial reporting

Subject Matter
Inclusion of Alternative Performance Measures (APMs) in information disclosed about the offer to the public or the admission to trading on a regulated market

Question
Given that Article 16(1)(d) of the Commission Delegated Regulation (EU) 2019/979 sets out that only APMs included in the prospectus can be included in the information disclosed about the offer to the public or the admission to trading on a regulated market, how should the issuer, offeror or person asking for admission to trading proceed in case a participant at a

live presentation (e.g. a roadshow/interview) requests information about an APM which is not included in the prospectus?

ESMA Answer

12-07-2019

Original language

[ESMA31-62-1258 Prospectus Q&A 7.2]

Before the prospectus is approved and published

If a participant at a live presentation requests information about an APM that is not included in the draft prospectus which has been submitted to the relevant national competent authority (NCA) but which has not yet been approved and published, the issuer, offeror or person asking for admission to trading is free to provide information on the APM in question. However, in order to ensure that no APM is included in the information disclosed about the offer/admission to trading without being included in the prospectus, the issuer, offeror or person asking for admission to trading should afterwards include the APM in the draft prospectus before this is approved and published, it being understood that the ESMA Guidelines on Alternative Performance Measures should be taken into account.

After the prospectus is approved and published

If a participant at a live presentation requests information about an APM that is not included in the approved and published prospectus, the issuer, offeror or person asking for admission to trading can proceed in two ways. It can decide to provide information on the APM and afterwards publish a supplement containing this APM, thereby ensuring consistency between the prospectus and the information disclosed about the offer/admission to trading. In such

case, the ESMA Guidelines on Alternative Performance Measures should be taken into account. Alternatively, if the issuer, offeror or person asking for admission to trading does not wish to publish a supplement, it should decline to provide information on the APM as there will otherwise be a breach of the requirement set out in Article 16(1)(d) of the Commission Delegated Regulation (EU) 2019/979.