ESMA_QA_1876

Submission Date
12/07/2017

Status: Answer Published

Additional Information

Level 1 Regulation
Transparency Directive (TD) Directive 2004/109/EC

Level 3 Regulation
Guidelines on Alternative Performance Measures

Topic
Alternative Performance Measures (APM)

Historic Question Reference
[ESMA32-51-370 APM Q10]

Subject Matter
Compliance by reference; Paragraph 45 and 46 of the APMs Guidelines (not applicable to prospectuses which are covered by a separate regime).

Question
What are the limits for the compliance by reference principle included in paragraph 45 of the APMs Guidelines?

ESMA Answer

12-07-2017

Original language

[ESMA32-51-370 APM Q10]

Paragraphs 45 and 46 provide a practical relief to issuers who may comply with the principles included in the APMs Guidelines if they include a direct reference to other documents previously published which contain the disclosures required by the APMs Guidelines.

Issuers may use the compliance by reference in order to avoid repetition of information in regulated information documents (e.g. ad-hoc disclosures presented in accordance with article 17 of MAR). However, the reference principle cannot be used when complying with the following requirements:

- Comparatives (paragraph 46 of the APMs Guidelines)
- Meaningful labels to the APMs used (paragraph 22 of the APMs Guidelines)
- Prominence and presentation of APMs (paragraph 35 and 36 of the APMs Guidelines)
- Consistency (paragraph 41 of the APMs Guidelines – however, the explanations required therein may be complied with by reference)