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Additional Information

Level 1 Regulation
Prospectus Regulation 2017/1129

Topic
Public offer

Additional Legal Reference
Article 1, paragraph 4, points (da) and (db)

Subject Matter
Listing Act implementation for secondary issuances of existing shares

Question
Are the exemptions from the obligation to produce a prospectus for offers of fungible securities that are set out in Article (1), paragraph 4, points (da) and (db) of the Prospectus Regulation (as amended by the Listing Act) also applicable to secondary issuances of existing shares, provided that all other requirements are met?

NB: Secondary issuances of existing shares are those initiated by an offeror (and not an issuer), as described in Article 14, 1st paragraph, point c) and Article 15, 1st paragraph, point

d) of the Prospectus Regulation (prior to its amendment by the Listing Act). A concrete example are the offers of existing NBG shares realised in 2023 and 2024 under the simplified prospectus regime for secondary issuance. Such offers do not involve any increase in share capital.

ESMA Answer

04-12-2025

Original language

Answer provided by the European Commission in accordance with Article 16b(5) of the ESMA Regulation

An offer of shares to the public that meets the conditions set out in either Article 1(4), point (da), or Article 1(4), point (db), of the Prospectus Regulation, is exempted from the obligation to publish a prospectus, irrespective of whether that public offer results or not in an increase in share capital.

Disclaimer:

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 prejudge the position that the European Commission might take before the Union and national courts.