9 September 2026
ESMA32-753890202-3085

Consultation Paper

Update to the Guidelines on disclosure requirements under the Prospectus Regulation

Responding to this paper

ESMA invites comments on all matters in this paper and in particular on the specific questions summarised in Annex 1. Comments are most helpful if they:

- respond to the question stated;
- indicate the specific question to which the comment relates;
- contain a clear rationale; and
- describe any alternatives ESMA should consider.

ESMA will consider all comments received by **09 November 2026**.

All contributions should be submitted online under the relevant consultation.

Publication of responses

All contributions received will be published following the close of the consultation, unless you request otherwise. Please clearly and prominently indicate in your submission any part you do not wish to be publicly disclosed. A standard confidentiality statement in an email message will not be treated as a request for non-disclosure. A confidential response may be requested from us in accordance with ESMA's rules on access to documents. We may consult you if we receive such a request. Any decision we make not to disclose the response is reviewable by ESMA's Board of Appeal and the European Ombudsman.

Data protection

Information on data protection can be found at www.esma.europa.eu under the heading 'Legal Notice and Data protection'.

Who should read this paper?

This Consultation Paper is likely of interest to investors, issuers and any stakeholder to whom the Prospectus Regulation is relevant.

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1 Executive Summary

Reasons for publication

Since March 2021, ESMA's Guidelines on disclosure under the Prospectus Regulation (ESMA32-382-1138) have helped ensure the consistent application of information requirements in Commission Delegated Regulation 2019/980 across the EU. On 14 November 2024, Regulation (EU) 2024/2809 was published in the Official Journal of the European Union and amended the Prospectus Regulation to lower issuer costs and make prospectuses more useful for investors, prompting substantial changes and deletions in Commission Delegated Regulation 2019/980. As a result, ESMA is updating the Guidelines to take into account these changes. This consultation paper outlines the proposed revisions and seeks feedback from stakeholders.

Contents

Section 2.1 of this consultation paper provides background about the changes introduced to the Prospectus Regulation by Regulation (EU) 2024/2809 as well as the accompanying changes to the Commission Delegated Regulation, while Section 2.2 of the Consultation Paper sets out the changes to the Guidelines.

Section 2.2.1 provides background about the Guidelines that ESMA proposes to delete. ESMA is proposing to drop these Guidelines because the corresponding disclosure requirements are no longer included in the Commission Delegated Regulation. This concerns the existing Guidelines on the guidelines on the (i) OFR, (ii) Capital resources, (iii) Capitalisation and indebtedness, (iv) History of share capital, and (v) Information on holdings.

Section 2.2.2 goes into ESMA's proposals for two new Guidelines relating to the incorporation by reference of management reports and explains that the new guidelines essentially replace the "old" Guideline 4. The first of the proposed new Guidelines explains how the persons responsible for a prospectus should ensure the consistency between the information in the management report and the rest of the prospectus.

The second proposed guideline explains how issuers without a management report and/or consolidated management report as referred to in Article 4 of Directive 2004/109/EC of the European Parliament and of the Council, where applicable, and in Chapters 5 and 6 of Directive 2013/34/EU of the European Parliament and of the Council, for the periods covered by the historical financial information including, where applicable, the sustainability reporting and related assurance opinion in accordance with Directive 2013/34/EU should ensure that the prospectus contains the necessary information for an investor to make an informed investment decision as required by Article 6(1) PR and Article 15a(2) PR.

In Section 2.2.3, ESMA proposes to incorporate Q&A 993 concerning the identification of profit forecasts in prospectuses into four additional guidelines, with no material changes to content. The inclusion of this Q&A in the Guidelines is justified since the Q&A has worked well and it is important to NCAs' prospectus supervision. Furthermore, this change would incorporate ESMA's guidance on profit forecasts and estimates in one place.

Section 2.2.4 concerns ESMA's proposed changes to the Guidelines relating to historical financial information. The most prominent of the proposed changes concerns the deletion of the existing Guideline 15 concerning the application of the "bridge approach". This deletion is justified because issuers are no longer required to include three years of historical financial information in prospectuses. Otherwise, ESMA proposes changes to update the references to align with the changes to the Commission Delegated Regulation and to take into account the reduction in the number of years of historical financial information that is required in prospectuses.

Section 2.2.5 concerns the Guideline on related party transactions. ESMA proposes to introduce a new guideline clarifying the definition of "related party transaction" for issuers. The clarification uses language from the explanatory text of the existing Guideline 41, which ESMA proposes to delete since it repeats the requirements set out in Item 7.4 of Annex 1 to the Commission Delegated Regulation.

ESMA discusses the various editorial changes made to the existing Guidelines in Section 2.2.6 of this consultation paper. In this section, ESMA notes that it considers these editorial changes to be self-explanatory but does not want to deprive stakeholders of the opportunity to comment on these changes or to suggest other changes that they consider relevant.

Finally, in Section 2.2.7, ESMA proposes to consolidate the Guidelines on risk factors under the Prospectus Regulation into these Guidelines to reduce the documents setting out Level 3 guidance relating to the Prospectus Regulation.

A cost benefit analysis is included in Section 3.2, which explains how the changes to the Guidelines fit within ESMA's simplification and burden reduction agenda.

Next Steps

ESMA will consider all feedback it receives to this Consultation Paper. A final report containing a summary of the consultation responses and a final version of the guidelines is expected to be published on ESMA's website in Q1 2027.

2 Background

2.1 Listing Act amends the Prospectus Regulation

1. Since their initial publication, the Guidelines on disclosure under the Prospectus Regulation (ESMA32-382-1138) have offered detailed guidance to market participants regarding the assessment of required information in accordance with specific disclosure items outlined in the Annexes to the Commission Delegated Regulation and fostered greater consistency across the Union in the application of the Annexes.

2. Regulation (EU) 2024/2809 of the European Parliament and of the Council ("Listing Act") amended the Prospectus Regulation to reduce issuers' costs and alleviate the burden on them while making prospectuses more useful for investors. In particular, the Listing Act: (i) standardised the format and sequence and streamlined the disclosure requirements for prospectuses; (ii) set a page limit for prospectuses for shares; (iii) introduced exemptions for follow-on issuances of securities by already listed companies; (iv) harmonised the rules on the scrutiny and approval of prospectuses by national competent authorities; and (v) allowed incorporation by reference of future financial information into base prospectuses. The Listing Act also introduced the following new types of short-form prospectuses: (i) the EU Follow-on prospectus, designed for public offers or admission to trading by companies already listed on a regulated market or an SME growth market; and (ii) the EU Growth issuance prospectus, designed to minimise costs and the administrative burden for SMEs, companies listed or companies to be listed on SME growth markets.

3. The Listing Act led to major revisions and deletions in Commission Delegated Regulation 2019/980. Certain disclosure items were removed, such as the operating and financial review, capitalisation and indebtedness or capital resources requirements, while several items no longer apply to new short-form prospectuses that replace the secondary issuance[1] or EU Growth Issuance prospectuses[2]. As the Guidelines on disclosure under the Prospectus Regulation are based on the earlier version of Commission Delegated Regulation 2019/980, updates are now required.

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[1] Articles 1(11) and 1(12) of the Listing Act.
[2] Articles 1(13) and 1(14) of the Listing Act.

4. ESMA is publishing this Consultation Paper (CP) to seek stakeholders' feedback on the proposed changes to the Guidelines. ESMA strongly encourages responses on these revisions as well as general feedback.

2.2 Proposed updates to the Guidelines on disclosure requirements under the Prospectus Regulation due to Listing Act amendments

2.2.1 Deleted guidelines

5. The guidelines on (i) OFR (ii) Capital resources (iii) Capitalisation and indebtedness (iv) History of share capital and (v) information on holdings have been deleted because the related disclosure is no longer required according to the annexes to Prospectus Regulation[3] and the Commission Delegated Regulation. As such, there is no legal basis to maintain them.

6. To prevent misunderstandings, ESMA is introducing two new guidelines about management reports. This essentially replaces Guideline 4 in the now-deleted OFR section but differs in substance due to the new requirement in item 4.1 of Annex 1 of Commission Delegated Regulation 2019/980. Details about this new guideline are provided in section 2.2.2.

Note: Blue text is used to identify changes relative to the previous guidelines

Extract from table of contents (ESMA32-382-1138)

[3] For the avoidance of doubt, ESMA is referring to the Annexes to Level 1 and not the Annexes in Commission Delegated Regulation 2019/980.

Q1: Do you have any major concerns regarding these deletions? If you think alternative guidance is needed, please provide a clear legal basis and supporting arguments.

2.2.2 Management report (new)

7. ESMA proposes two new guidelines relating to the management report, which would replace Guideline 4 (see ESMA32-382-1138). The original guideline addressed situations where issuers opted to satisfy the now-deleted OFR disclosure requirements in Commission Delegated Regulation (EU) 2019/980 by including a management report prepared in accordance with the national transposition of Articles 19 or 29 of the Accounting Directive and, where applicable, Articles 19a and 29a. The guidance referred to the need to ensure that the management report remained up to date and consistent with the prospectus disclosure on operating results, capital resources, and information such as trends and profit forecasts. Where this was not the case, the guidance explained that the prospectus should include the necessary clarifications.

8. In its current form, however, Guideline 4 is no longer fully fit for purpose, because item 4.1 of Annex I (and the equivalent items) now require issuers to incorporate by reference the entire management report or include all the information contained in the management report in order to satisfy the disclosure requirement[4]. In ESMA's view, the information in the prospectus must be consistent with the management report and comprehensible within the context of other disclosure in the prospectus. Where consistency is lacking, additional disclosure may be necessary in the prospectus to remedy the divergence. The new guidelines and explanatory text are therefore formulated as follows.

~~**Guideline 4: If the OFR requirement is satisfied by the inclusion of the entire management report prepared in accordance with national laws, regulations and administrative provisions transposing Article 19 or Article 29 and, where applicable, Article 19a and 29a of the Accounting Directive, in addition to Guidelines 1, 2 and 3, the persons responsible for the prospectus should ensure that the management report is comprehensible and consistent with the prospectus.**~~

[4] The full text of the item states: "*The purpose of this section is to either incorporate by reference or include the information set out in the management reports and consolidated management reports as referred to in Article 4 of Directive 2004/109/EC of the European Parliament and of the Council*[*1], *where applicable, and in Chapters 5 and 6 of Directive 2013/34/EU of the European Parliament and of the Council*[*2], *for the periods covered by the historical financial information including, where applicable, the sustainability reporting and related assurance opinion in accordance with Directive 2013/34/EU*". ESMA omitted references to the consolidated management report and sustainability reporting in the paragraph to shorten the text and make it easier to read.

Guideline [1]: The persons responsible for the prospectus should ensure that material information in the prospectus is consistent, clear and comprehensible. Accordingly, the persons responsible for the prospectus should ensure the consistency of the material information included in:

I. **the historical financial information;**

II. **the information incorporated by reference or included from the management reports and consolidated management reports as referred to in Article 4 of the Transparency Directive, where applicable, and in Chapters 5 and 6 of the Accounting Directive, for the periods covered by the historical financial information including, where applicable, the sustainability reporting and related assurance opinion in accordance with the Accounting Directive; and**

III. **the other sections of the prospectus.**

Where it is impracticable to ensure the consistency of specific, material information in the management report with the historical financial information or the other sections of the prospectus, the persons responsible for the prospectus should disclose this fact and identify the relevant sections or paragraphs in the management report. Additionally, the prospectus should include explanations about why it is impracticable or otherwise not relevant to ensure the consistency of the information.

The persons responsible for the prospectus are required to either include directly or incorporate by reference all information set out in management reports and consolidated management reports.

Examples of where material inconsistencies may arise are:

A. where an issuer's financial statements are restated under IFRS, but its management report contains references to, or additional explanations of, key performance indicators (KPI), alternative performance measures or amounts reported prepared under the previous accounting framework.

B. where information included the management report is outdated compared to information included in the prospectus. For example, information regarding major shareholders, resignation of key management personnel, sale of material subsidiaries, associates or joint ventures occurring after the preparation and/or publication of the management report.

In such circumstances and to the extent that updated information is not already included in the prospectus, the persons responsible for the prospectus should include additional explanations and, where material, the restated amounts, KPI or alternative performance measures prepared in accordance with IFRS to address any material inconsistencies identified and to ensure that the prospectus is clear, comprehensible, and internally consistent.

Information in management reports may naturally become inconsistent with the information elsewhere in the prospectus due to the passage of time. In such cases, it is only necessary to update the information to the extent necessary to ensure that the prospectus is comprehensible and satisfies the necessary information test in Article 6(1) PR and Article 15a(2) PR.

For the purposes of these Guidelines, it is considered impracticable to ensure the consistency of the information in the prospectus with the information in the management report if the person(s) responsible for the prospectus have made every reasonable effort to ensure the consistency but are unable to do so.

When complying with this Guideline, the persons responsible for the prospectus should avoid unnecessary repetitions of information in the prospectus.

Finally, ESMA clarifies that the item 9.1 of Annex 34 reference to Chapter 6 of the Accounting Directive should also be read as encompassing consolidated management reports pursuant to Article 19 and/or 29 of the Accounting Directive, where relevant.

Guideline [2]: The persons responsible for the prospectus should ensure that the prospectus contains the necessary information that investors need to make an informed assessment as referred to in Article 6(1) and Article 14(2) of Regulation (EU) 2017/1129.

Accordingly, where an issuer is not required to prepare a management report and/or consolidated management report as referred to in Article 4 of the Transparency Directive, where applicable, and in Chapters 5 and 6 of the Accounting Directive, the persons responsible for the prospectus should ensure that any material information that would normally be included in a management report and is necessary for an informed investment decision as referred to Article 6(1) PR and Article 15a(2) PR is included in the prospectus.

For example, the persons responsible for the prospectus may satisfy this requirement by including material information that is comparable to what is specified in Article 13 of Commission Directive 2007/14/EC of 8 March 2007 regarding the management report, complemented, where applicable, by the sustainability reporting and related assurance opinion in accordance with the Accounting Directive. There may be other ways of dealing with this issue. For example, an issuer may satisfy this requirement by including information in its prospectus from a document similar to a management report as referred to in Article 4 of Directive 2004/109/EC of the European Parliament and of the Council, where applicable, and in Chapters 5 and 6 of Directive 2013/34/EU of the European Parliament and of the Council.

When complying with this Guideline, the persons responsible for the prospectus should avoid unnecessary repetitions of information in the prospectus.

9. ESMA recognises that replacing the formal OFR requirement may present certain challenges, as highlighted in some responses to ESMA's consultation on the technical advice concerning the Prospectus Regulation and the RTS updating the CDR on metadata[5]. However, given the co-legislators' choice to remove the OFR as a formal prospectus disclosure requirement and instead require the incorporation of the entire management report, ESMA considers that the primary way to address discrepancies which this may create is to apply the principles of comprehensibility and consistency[6].

10. Where necessary to achieve that objective, ESMA suggests providing additional explanations in the prospectus to avoid the costs associated with the publication of new management reports. Additionally, ESMA considers that only material inconsistencies should be addressed. This not only is intended to keep costs down for issuers but also intended to contribute to shorter prospectuses by limiting the additional disclosure to situations where it is necessary to make an informed investment decision.

11. Furthermore, ESMA notes that the information in management reports naturally becomes inconsistent with information in the prospectus due to the passage of time. ESMA emphasises that it is only necessary to update the information in an outdated management report to the extent necessary to ensure that a prospectus satisfies the necessary information test in Article 6(1) PR and Article 15a(2) PR.

[5] ESMA32-117195963-1417 Final Report on the Technical advice concerning the Prospectus Regulation and the RTS updating the CDR on metadata - paragraph 60.
[6] Article 20(4) of the Prospectus Regulation.

12. ESMA also appreciates that it may be impracticable to ensure the consistency of the material information in the management report with the prospectus. In such cases, this should be disclosed and the relevant sections or paragraphs in the management report should be identified. Additionally, ESMA considers that the prospectus should include explanations about why it is impracticable. When determining if it is impracticable to ensure the consistency of the information, ESMA proposes to follow IAS 8.5, whereby it will be considered impracticable if the person responsible for the prospectus have made every reasonable effort to ensure the consistency but are unable to do so.

13. The second guideline clarifies how issuers who are not subject to the Accounting Directive should approach the application of the new annex item in order to ensure that their prospectuses contain the necessary information in accordance with Article 6(1) PR and Article 15a(2) PR. In this case, ESMA proposes that where an issuer is not required to prepare a management report and/or consolidated management report as referred to in Article 4 of Directive 2004/109/EC of the European Parliament and of the Council, where applicable, and in Chapters 5 and 6 of Directive 2013/34/EU of the European Parliament and of the Council, the persons responsible for the prospectus should ensure that any material information that would normally be included in a management report and is necessary for an informed investment decision is included in the prospectus.

14. ESMA considers that this guideline is necessary to (i) ensure that these issuers are not asked to draw up new management reports in accordance with the Accounting Directive and (ii) to guarantee a level playing field between European and foreign issuers. To ensure this Guideline's proportionality, ESMA encourages issuers to make use of existing disclosure in documents similar to management reports as referred to in the Accounting Directive.

Q2: Do you agree with ESMA's proposal for Guideline [1]? If not, what improvements would you suggest?

Q3: Are there any specific situations in which it would be impracticable to ensure consistency between the information in the prospectus and the management report? If so, what are these situations and how would you suggest ESMA take them into account?

Q4: Do you agree with ESMA's proposal for Guideline [2]? If not, what improvements would you suggest?

Q5: Do you agree with ESMA's attempt to ensure a level playing field between European and foreign issuers? If not, how could such a level playing field be better ensured?

2.2.3 Profit forecasts and estimates

15. ESMA proposes to update the existing guidelines on profit forecasts and estimates by converting ESMA Q&A 993 concerning the identification of profit forecasts in prospectuses into four additional guidelines. The conversion of this Q&A is warranted due to its importance in the supervision of profit forecasts and estimates, which often involve the question of whether specific disclosure in a prospectus qualifies as a profit forecast. NCAs' experiences with the content of the Q&A have been positive and the content of the Q&A seems to have been broadly accepted by stakeholders.

16. As the Q&A has worked quite well and has generally been accepted by stakeholders, the entire content of the Q&A has been carried over in these four guidelines, with only minor editorial changes. The inclusion of the Q&A's content in these Guidelines also ensures that the most important guidance on profit forecasts and estimates is included in one place, which simplifies access to the Level 3 guidance in on this topic[7].

17. This Q&A has been converted into four new guidelines:

a) Guideline 3 on the identification of profit forecasts;

b) Guideline 4 on accounting data and financial indicators;

c) Guideline 5 on wording that is not considered a profit forecast; and

d) Guideline 6 on the clear labelling of profit forecasts.

18. Additionally, it is important to acknowledge that the disclosure requirements for EU Follow-on prospectus for equity securities (Annex 30, Section 8) and the EU Growth issuance prospectus for equity securities (Annex 34, Item 5.4) only require limited disclosure relating to profit forecasts and estimates. This disclosure consists of:

- the inclusion of published profit forecast or estimate in the prospectus to the extent that it remains outstanding and valid; or

- a statement that a profit forecast or estimate has been published and remains outstanding but is no longer valid, along with an explanation as to why such forecast or estimate is no longer valid.

[7] ESMA has decided not to convert Q&As 998 and 999 concerning, respectively, interim financial information and profit estimates into guidelines because the answers to both Q&As are straightforward. Furthermore, ESMA notes that these Q&As were issued by the Commission.

19. Accordingly, Guidelines 7 – 10 do not apply to the EU Follow-on prospectus for equity securities and the EU Growth issuance prospectuses. However, ESMA expects that the disclosure required in Guidelines 7 – 10 will be included in EU Follow-on prospectuses and EU Growth issuance prospectuses that include a profit forecast or estimate that is being published for the first time to ensure that the information in the prospectus is complete and comprehensible for investors as well as ensuring that these prospectus satisfy Article 14a(2) or Article 15a(2) PR, as applicable.

20. ESMA is proposing to carry over the rest of the existing guidelines relating to profit forecasts and estimates, with the only changes being made to update the relevant legal references.

Identification of profit forecasts

Article 2 (Annex 1, Item 3.6; Annex 15, Item 4.6), Article 7a (Annex 7, Item 3.5; Annex 16, item 4.5), Article 28a (Annex 30, Item 8.1) and Article 28b (Annex 34, Item 5.4) of the Commission Delegated Regulation.

Guideline [3]: An important part of the definition of 'profit forecast' are the terms, 'minimum or maximum figure'. Profit forecasts refer to the issuer's projections for future periods, where the wording 'either directly or indirectly' indicates the likely minimum or maximum level of the issuer's future profit or loss. Instead of a precise figure, a profit forecast can also refer to a range of figures particularly when a minimum or maximum figure is mentioned or implied.

Examples of profit forecasts include:

(i) "We expect this year's profits before taxes to be between €30 million and €50 million."

(ii) "The profit / loss is expected to be in line with the previous year."

(iii) "The profit / loss is expected to be higher / lower than the previous year."

(iv) "This year's annual results will be positive / negative."

The phrase 'the likely level of profits or losses' does not only refer to the profit or loss for the year (bottom line of the profit and loss account) / (bottom line of statement of profit or loss and other comprehensive income) / net profit or loss, but also to other measures of profitability when these measures convey an expectation of a future performance. For example:

Profit forecast derived from profit and loss accounts:

(i) EBITDA = Earnings before Interest, Taxes, Depreciation and Amortisation.

(ii) EBIT = Earnings before Interest and Taxes (and similar measures such as Operating Profit/Earnings/Income).

(iii) EBT = Earnings before Taxes.

(iv) Similar and adjusted versions of the examples above (such as “Adjusted EBIT” or “Recurring net income”)

Example of a profit forecast:

“Before the estimated impact of disposals, […] current expectations for the 20XX Financial Year are Adjusted Operating Profit of around €100 million and EBITDA […] of around €160 million.”

Accounting data and financial indicators

Article 2 (Annex 1, Item 3.6; Annex 15, Item 4.6), Article 7a (Annex 7, Item 3.5; Annex 16, item 4.5), Article 28a (Annex 30, Item 8.1) and Article 28b (Annex 34, Item 5.4) of the Commission Delegated Regulation.

Guideline [4]: Accounting data or financial indicators may, on certain conditions, be considered as constituting a profit forecast. A ‘substance over form’ approach should be adopted when considering whether financial measures should be viewed as profit forecasts for the purposes of the Prospectus Regulation.

This approach is consistent with the definition of ‘profit forecast’, which includes statements that, by implication, indicate a minimum or maximum figure or a likely level of profits or losses, even if no particular figure is mentioned.

Examples of measures that may, on certain conditions, be considered as a profit forecast:

(i) If an issuer normally communicates financial performance on Gross Profit level, or if the issuer has rigid cost structures ESMA or NCAs may deem forecasted Gross Profit to be a profit forecast.

(ii) Projections of cash flow metrics could be deemed profit forecasts in specific instances if indications making it possible to deduce the likely profit level from it are given in the prospectus.

(iii) Alternative Performance Measures or Key Performance Indicators pointing into the future that are calculated (in full or in part) based on profit/loss measures. The statement 'contains data from which a calculation of such a figure for future profits and losses can be made' clarifies that the scope of the profit forecast definition encompasses forms of words from which profits or losses can be derived, even if no particular figure is mentioned and the word 'profit' is not used. With this in mind, it follows that information may be considered a profit forecast if it is possible to calculate a figure or a minimum or a maximum for the likely levels of future profit or loss in combination with other information in the prospectus.

Examples of profit forecasts:

(i) "Turnover for Q4 as well as costs are expected to remain the same as last year."

(ii) "We are expecting this year's turnover to remain the same and this year's EBITDA margin to rise by 5%."

Information does not need to relate to the entirety of the issuer's results to be a profit forecast. Where one or more segments of the issuer's business generates the majority of the issuer's profit / loss, and predictions are made about the level of the segment's profit / loss, this can also constitute a profit forecast for the issuer as a whole. Likewise, where a proposed acquisition is expected to generate the vast majority of the issuer's profit / loss, and predictions are made about the level of the target's profit / loss, that can also constitute a profit forecast for the issuer if this information is included in a prospectus.

The definition of 'profit forecast' in Article 1(d) of the Commission Delegated Regulation includes the phrase, '…expressly or by implication indicates'. Accordingly, if the purpose of the wording is to provide information about expected future profit / loss for a specific financial period, it is considered a profit forecast, regardless of the verb used and particularly if a specific figure is stated.

Examples of profit forecasts:

(i) "We hope to reach a profit of €10 million this year."

(ii) "We aim to reach a profit of €10-12 million earnings before taxes next year."

(iii) “Our target is to become profitable by the end of Q3 this year.

Long-term financial objectives, for several future periods (aggregated or not) or for a distant future period may be considered profit forecasts depending on facts and circumstances, such as the context and the way they are presented.

Wording that is not considered a profit forecast

Article 2 (Annex 1, Item 3.6; Annex 15, Item 4.6), Article 7a (Annex 7, Item 3.5; Annex 16, item 4.5), Article 28a (Annex 30, Item 8.1) and Article 28b (Annex 34, Item 5.4) of the Commission Delegated Regulation.

Guideline [5]: To constitute a profit forecast, a statement must be specific with respect to (i) level of profit / loss or other measure of profitability (a number / range / floor / ceiling) and (ii) a specific financial period.

Profit forecasts differ from trend information required by item 3.5.1 of Annex 1 to the Commission Delegated Regulation. In practice, there is often a fine line between what constitutes a profit forecast and what constitutes trend information. A general discussion about future prospects of the issuer under trend information will not normally constitute a profit forecast.

Depending on the context and whether a profit forecast can be derived when combined with other information in the prospectus, the following are examples of disclosures that are not, by themselves, profit forecasts:

(i) “We expect our sales/revenue to decline to €560 million.”

(ii) “Turnover is expected to rise by 5 % compared to last year.”

(iii) “Our target is to maintain an operating margin of 7% in the medium to long term.”

(iv) “Announcement of an amount of dividend per share.”

(v) “Description of the issuer’s dividend policy.”

It is not possible to remove information from the scope of the definition of profit forecast by merely stating that it is not a profit forecast. Examples of such statements include:

(i) No profit forecast or estimate is included in this prospectus.”

(ii) "Nothing in this document is intended to be, nor should be construed as a profit forecast."

(iii) "The foregoing statement should not be interpreted to mean X's future earnings per share will necessarily be the same or greater than its historic earnings per share."

The clear identification of profit forecasts

Article 2 (Annex 1, Item 3.6; Annex 15, Item 4.6), Article 7a (Annex 7, Item 3.5; Annex 16, item 4.5), Article 28a (Annex 30, Item 8.1) and Article 28b (Annex 34, Item 5.4) of the Commission Delegated Regulation.

Guideline [6]: Profit forecasts and related assumptions should be clearly identified in the prospectus as such.

Investors must be able to easily differentiate between a "profit/loss forecast" and other information, such as "objectives" or "trend information".

Q6: Do you agree with ESMA's proposed new guidelines 3, 4, 5 and 6? If you disagree, please set out your proposed alternative, including the legal basis and the rationale supporting your proposal.

Q7: Do you agree with ESMA's proposal to carry over the existing guidelines on profit forecasts and estimates without any material changes? If you do not agree, please indicate where you believe changes should be considered, including the relevant argumentation.

2.2.4 Historical financial information

21. The guidance about historical financial information has helped clarify what needs to be disclosed when changing an accounting framework, focusing especially on the "bridge approach" linked to the three-year requirement for historical financial information in Commission Delegated Regulation 2019/980. However, as the three-year requirement is now shortened to two (or one year for non-equity), the "bridge approach" guidance appears less relevant. ESMA therefore proposes deleting Guideline 15, along with related paragraphs across the historical financial information section referencing the three-year period.

~~**Application of bridge approach**~~

~~*Article 2 (Annex 1, Item 18.1.4), Article 7 (Annex 6, Item 11.1.4), Article 10 (Annex 9, Item 8.2.3), Article 28 (Annex 24, Item 5.1.4) and Article 29 (Annex 25, Item 5.1.4) of the Commission Delegated Regulation.*~~

~~**Guideline 15: Where the prospectus is required to include historical financial information for three financial years, and not all of those years of financial information are restated, the persons responsible for the prospectus should present and prepare the middle period under both the current and the new accounting framework and should present and prepare the last period only under the new accounting framework.**~~

~~**[...]**~~**.**

22. Otherwise, ESMA mainly proposes to update referencing in the section on historical financial information and to align with changes in Commission Delegated Regulation 2019/980, such as by deleting the reference to the statement of changes in equity.

Guideline [13]: If the applicable accounting standards do not require the inclusion in the annual financial information of some components of the financial statements required by the applicable Annexes of the Commission Delegated Regulation, the persons responsible for the prospectus should ensure that the additional statements required by that Regulation are included in the prospectus ~~prepared in accordance with the applicable accounting framework~~.

In some cases, the applicable accounting framework will not require issuers to prepare all the components of the historical financial information required under the relevant Annexes of Commission Delegated Regulation, for instance the cash flow statement ~~or the statement of changes in equity~~. In such cases, the persons responsible for the prospectus should prepare the missing information for the purposes of the prospectus. [..]

23. For the avoidance of doubt, paragraph 76 of the original guidelines dealing with restatement of historical financial information in the context of prospectuses that are required to include only one year of historical financial information was kept and moved up underneath Guideline [11] at paragraph 67. The only change to this paragraph is

the removal of the final sentence, which follows from the previous sentence and is therefore unnecessary duplication.

Where the requirement to restate the historical financial information applies to prospectuses that are required to include only one year of historical financial information, the persons responsible for the prospectus should restate the historical financial information for that year and present it under the new accounting framework. When the applicable accounting framework requires that the financial statements of the last year include comparative information and the issuer prepares such financial statements that contain comparative information, this should be included in the prospectus. ~~However, where not required by the applicable accounting framework, the comparative information does not need to be presented in the new accounting framework solely for the purposes of the prospectus.~~

Q8: Do you agree with ESMA's proposed deletion of Guideline 15 and the associated adjustments in the section about historical financial information? Are there other changes necessary in this section? If so, please explain why.

2.2.5 Related-party transactions

24. ESMA proposes to delete Guideline 41 on related party transactions and introduce a new guideline clarifying the definition of "related party transaction" for issuers. The clarification uses language from the explanatory text of the existing Guideline 41.

25. The deleted guideline repeats the requirements set out in Item 7.4 of Annex 1 making it superfluous. Moreover, it requires the disclosure of the amount or the percentage to which related party transactions form part of the assets and liabilities of the issuer, which goes beyond the requirements of Item 7.4 of Annex 1, which only requires the amount or the percentage to which related party transactions form part of the turnover of the issuer.

~~**Guideline 41: If the issuer does not apply IAS 24 and has entered into related party transactions during (i) the period covered by the historical financial information which is included in the prospectus and (ii) the period up to the date of the registration document, the persons responsible for the prospectus should provide information on the nature and extent of any such transactions which are material to the issuer - either as a single transaction or in their entirety.**~~

~~**Where a registration document is prepared for a secondary issuance of equity securities, the same information as set out above should be provided. For secondary issuances of equity securities, the period concerned is from the date of the last financial statements.**~~

~~**In both cases the disclosure should include, but not be limited to, the amount or the percentage to which related party transactions form part of the turnover of the issuer and the amount or the percentage to which related party transactions form part of the assets and liabilities of the issuer.**~~

Guideline [35]: A related party transaction has the same meaning as in IAS 24. If an issuer does not apply IAS 24, it should consult IAS 24 to understand the meaning of a related party transaction.

For issuers who use an equivalent third country accounting framework to IAS / IFRS if their accounting framework provides details on related party transactions, they should consult the definition of related party transactions therein. The use of this equivalent accounting standard to IAS 24 should be sufficient.

Where relevant, an issuer should state if it has followed the approval process for related party transactions and should provide disclosure as per Article 9(c) of the Shareholder Rights Directive.

Q9: Do you agree with ESMA's proposal to delete and update Guideline 41? If not, please explain your reasoning.

Q10: Do you have any suggestions to further amend Guideline [35] concerning related party transactions? If so, please explain your suggestion(s).

2.2.6 Remaining guidelines (minor updates)

26. There are 18 Guidelines sections in the original document, 5 of which are proposed for deletion and 4 with notable changes which have already been highlighted. Updates to the remaining sections mostly involved edits to cross-references, so ESMA has not highlighted those guidelines in this consultation paper, as the edits are considered self-explanatory. However, ESMA does not mean to prevent market participants from providing comments or suggesting changes they believe are relevant. Therefore, if you think further changes are necessary beyond cross-reference updates, you are encouraged to share them in this consultation. For the avoidance of doubt, edits

intended to improve readability are not meant as policy changes. These edits appear in certain guidelines and explanatory text and were to clarify certain previous phrasing. If there are concerns about any changes, please highlight them in your feedback.

27. The sections with only editorial changes are listed in the table below:

PRO FORMA FINANCIAL INFORMATION
INTERIM FINANCIAL INFORMATION
WORKING CAPITAL STATEMENTS
REMUNERATION
ACQUISITION RIGHTS AND UNDERTAKINGS TO INCREASE CAPITAL
OPTIONS AGREEMENTS
DESCRIPTION OF THE RIGHTS ATTACHING TO THE ISSUER'S SHARES
STATEMENTS BY EXPERTS
INTEREST OF NATURAL AND LEGAL PERSONS INVOLVED IN THE ISSUE / OFFER
COLLECTIVE INVESTMENT UNDERTAKINGS

2.2.7 The Guidelines on risk factors under the Prospectus Regulation

28. ESMA proposes to incorporate the Guidelines on risk factors under the Prospectus Regulation (ESMA31-62-1293) with the Guidelines on prospectus disclosure to reduce the number of ESMA publications containing Level 3 guidance. This proposal is intended to contribute ESMA's simplification and burden reduction agenda.

Q11: Do agree with ESMA's proposal to incorporate the Guidelines on risk factors under the Prospectus Regulation with the Guidelines on prospectus disclosure? If not, please explain your answer.

3 Annexes

3.1 Annex I: Summary of questions

Q1: Do you have any major concerns regarding these deletions? If you think alternative guidance is needed, please provide a clear legal basis and supporting arguments.

Q2: Do you agree with ESMA's proposal for Guideline [1]? If not, what improvements would you suggest?

Q3: Are there any specific situations in which it would be impracticable to ensure consistency between the information in the prospectus and the management report? If so, what are these situations and how would you suggest ESMA take them into account?

Q4: Do you agree with ESMA's proposal for Guideline [2]? If not, what improvements would you suggest?

Q5: Do you agree with ESMA's attempt to ensure a level playing field between European and foreign issuers? If not, how could such a level playing field be better ensured?

Q6: Do you agree with ESMA's proposed new guidelines 3, 4, 5 and 6? If you disagree, please set out your proposed alternative, including the legal basis and the rationale supporting your proposal.

Q7: Do you agree with ESMA's proposal to carry over the existing guidelines on profit forecasts and estimates without any material changes? If you do not agree, please indicate where you believe changes should be considered, including the relevant argumentation.

Q8: Do you agree with ESMA's proposed deletion of Guideline 15 and the associated adjustments in the section about historical financial information? Are there other changes necessary in this section? If so, please explain why.

Q9: Do you agree with ESMA's proposal to delete and update Guideline 41? If not, please explain your reasoning.

Q10: Do you have any suggestions to further amend Guideline [35] concerning related party transactions? If so, please explain your suggestion(s).

Q11: Do agree with ESMA's proposal to incorporate the Guidelines on risk factors under the Prospectus Regulation with the Guidelines on prospectus disclosure? If not, please explain your answer.

3.2 Annex II: Cost-benefit analysis

1. The Listing Act introduced major amendments to the Prospectus Regulation, reducing prospectus disclosure requirements, particularly for financial information. These changes affect existing Level 3 measures in the prospectus area, including the Guidelines on prospectus disclosure, which therefore need to be revised to reflect the streamlined disclosure framework and clarify the new elements introduced. This is intended to ensure that the updated requirements are clear to market participants and NCAs and support the efficient preparation and supervision of prospectuses under the new regime. Without these updates, there is a risk to issuers of significant disruption, additional costs and uncertainty about the applicable requirements. As such, the proposed updates to the prospectus disclosure guidelines should reduce regulatory burden, in line with the Listing Act's broader objectives and the simplification and burden reduction agenda. In particular, the reduced number of guidelines means that market participants and NCAs will have less material to consult, mainly because guidance linked to disclosure requirements that have been removed is also being deleted.

Summary table

	Number of Guidelines on prospectus disclosure	Number of Sections in the Guidelines on Prospectus disclosure
Currently	57	18
Proposed	[49]	[14]

2. The remaining guidance combines existing elements that have worked well in practice and require only limited changes, ensuring continuity for issuers and NCAs. Certain targeted new guidance was included to clarify new requirements introduced by the Listing Act, in particular, in relation to the management report.

3. The new guidance for management reports is especially relevant for non-EU issuers that are not subject to the Accounting Directive and for EU issuers subject to that Directive that have previously published a management report. ESMA proposes common sense changes to ensure that these issuers' prospectuses satisfy the "necessary information test" in Article 6(1) PR and Article 15a(2) PR. The proposed guideline is proportionate in that it ensures that the information in these issuers' prospectuses is similar to those prospectuses where a management report is

incorporated by reference, while at the same time not requiring these issuers to draw up an entirely new management report in order to have their prospectus approved. The guidance also helps clarify for issuers and NCAs how to ensure both consistency and comprehensibility when complying with the new requirement to incorporate by reference by reference the issuer's management report. This Guideline also takes a proportionate approach by not requiring issuers to draw up new management reports to ensure consistency. Instead, issuers are allowed to provide additional explanations in the prospectuses to the extent that the inconsistency is material. Furthermore, the Guideline accounts for situations in which it will not be feasible to ensure the consistency of the information in the management report and the rest of the prospectus. Without this guidance, there is a risk of material divergence in the application of the new management report requirement.

4. In addition, integrating the former prospectus Q&As on profit forecasts preserves guidance that market participants are understood to have found useful in practice while consolidating Level 3 guidance in a single place. This removes the need for market participants and NCAs to consult both the Q&As and the profit forecast guidelines to understand the requirements. Thus, generally improving efficiency. Similarly, ESMA's proposal to consolidate the risk factors guidelines into a single document with the updated prospectus disclosure guidelines would further reduce the number of documents and sources that must be consulted for guidance under the Prospectus Regulation, thereby improving efficiency for market participants. As such, ESMA considers the proposed updated guidelines to be well calibrated from a cost-benefit perspective, striking a balance between streamlining and adding guidance where appropriate.

3.3 Annex III: (Updated) draft Guidelines on disclosure requirements under the Prospectus Regulation

1 Scope

Who?

1. These guidelines apply to competent authorities as defined in the Prospectus Regulation and market participants, such as the persons responsible for a prospectus under Article 11(1) of the Prospectus Regulation.

What?

2. The purpose of these guidelines is to help market participants to comply with the disclosure requirements set out in the Commission Delegated Regulation and to enhance consistency across the Union in the way that the annexes to the Commission Delegated Regulation are interpreted. The guidelines have been drafted pursuant to Article 16(3) of the ESMA Regulation.

When?

3. These guidelines apply from [dd month yyyy].

2 Legislative references, abbreviations and definitions

2.1 Legislative references

Commission Delegated Regulation / Commission Delegated Regulation 2019/980	Commission Delegated Regulation (EU) 2019/980 of 14 March 2019 supplementing Regulation (EU) 2017/1129 of the European Parliament and of the Council as regards the format, content, scrutiny and approval of the prospectus to be published when securities are offered to the public or admitted to trading on a regulated market, and repealing Commission Regulation (EC) 809/2004[8]
Prospectus Regulation	Regulation (EU) 2017/1129 of the European Parliament and of the Council of 14 June 2017 on the prospectus to be published when securities are offered to the public or admitted to trading on a regulated market, and repealing Directive 2003/71/EC[9]
Listing Act	Regulation (EU) 2024/2809 of the European Parliament and of the Council of 23 October 2024 amending Regulations (EU) 2017/1129, (EU) No 596/2014 and (EU) No 600/2014 to make public capital markets in the Union more attractive for companies and to facilitate access to capital for small and medium-sized enterprises[10]
ESMA Regulation	Regulation (EU) No 1095/2010 of the European Parliament and of the Council of 24 November 2010 establishing a European Supervisory Authority (European Securities and Markets Authority), amending Decision No 716/2009/EC and repealing Commission Decision 2009/77/EC[11]
Accounting Directive	Directive 2013/34/EU of the European Parliament and of the Council of 26 June 2013 on the annual financial statements, consolidated financial statements and related reports of certain types of undertakings, amending Directive 2006/43/EC of the European Parliament and of the Council and repealing Council Directives 78/660/EEC and 83/349/EEC[12]
EU Regulation 1606/2002	Regulation (EC) 1606/2002 of the European Parliament and of the Council of 19 July 2002 on the application of international accounting standards[13]
Audit Directive	Regulation 2014/56/EU of the European Parliament and Council of 16 April 2014 amending Directive 2006/43/EC on statutory audits of annual accounts and consolidated accounts[14]

[8] OJ L 166, 21.06.2019, p. 26–176.
[9] OJ L 168, 30.06.2017, p. 12-82.
[10] OJ L, 2024/2809, 14.11.2024.
[11] OJ L 331, 15.12.2010, p. 84.
[12] OJ L 182, 29.06.2013, p. 19-76.
[13] QJ L 243, 11.09.2002, p. 1-4.
[14] OJ L 158, 27.05.2014, p 196-226

Audit Regulation	Regulation (EU) 537/2014 of the European Parliament and of the Council of 16 April 2014 on specific requirements regarding statutory audit of public-interest entities and repealing Commission Decision 2005/909/EC[15]
Transparency Directive	Directive 2004/109/EC of the European Parliament and of the Council of 15 December 2004 on the harmonisation of transparency requirements in relation to information about issuers whose securities are admitted to trading on a regulated market and amending Directive 2001/34/EC[16]
Capital Requirements Regulation	Regulation (EU) 575/2013 of the European Parliament and of the Council of 26 June 2013 on prudential requirements for credit institutions and investment firms and amending Regulation (EU) 648/2012[17]
Commission Delegated Regulation (EU) 2015/61	Commission Delegated Regulation (EU) 2015/61 of 10 October 2014 to supplement Regulation (EU) 575/2013 of the European Parliament and the Council with regard to liquidity coverage requirement for Credit Institutions[18]
Solvency II	Directive 2009/138/EC of the European Parliament and of the Council of the 25 November 2009 on the taking-up and pursuit of the business of Insurance and Reinsurance (Solvency II)[19]
Commission Implementing Regulation (EU) 680/2014	Commission Implementing Regulation (EU) 680/2014 of 16 April 2014 laying down implementing technical standards with regard to supervisory reporting of institutions according to Regulation (EU) 575/2013 of the European Parliament and of the Council[20]
Shareholder Rights Directive / SRD	Directive 2007/36/EC of the European Parliament and of the Council of 11 July 2007 on the exercise of certain rights of shareholders in listed companies[21]
Commission Decision 2008/961/EC	Commission Decision 2008/961/EC of 12 December 2008 on the use by third countries' issuers of securities of certain third country's national accounting standards and International Financial Reporting Standards to prepare their consolidated financial statements (notified under document number C(2008) 8218[22]
SFT Regulation	Regulation (EU) 2015/2365 of the European Parliament and of the Council of 25 November 2015 on transparency of securities financing transactions and of reuse and amending Regulation (EU) 648/2012[23]

[15] OJ L 158, 27.05.2014, p. 77-112.
[16] OJ L 390, 31.12.2004, p. 38-57.
[17] OJ L 176, 27.06.2013. p. 1-337.
[18] OJ L 11, 17.01.2015, p. 1-36.
[19] OJ L 335, 17.12.2009, p. 1-155.
[20] OJ L 191, 28.06.2014, p. 1-1861.
[21] OJ L 184, 14.07.2007, p 17-24.
[22] OJ L 340, 19.12.2008, p. 112-114.
[23] OJ L 337, 23.12.2015, p. 1-34.

2.2 Abbreviations

CP	Consultation Paper
EC	European Commission
ESMA	European Securities and Markets Authority
EU	European Union
IAS / IFRS	International Accounting Standards / International Financial Reporting Standards
KPI	Key performance indicator
OFR	Operating and financial review
GAAP	Generally Accepted Accounting Principles
IPO	Initial public offer
CET 1	Common Equity Tier 1
SFT	Securities financing transactions

2.3 Definitions

Competent authority	A competent authority responsible for approving prospectuses under the Prospectus Regulation
Annex(es) / Annex Item	Annexes (disclosure schedules) in Commission Delegated Regulation (EU) 2019/980
Persons responsible for the prospectus	The persons to whom responsibility for the information in a prospectus attaches, that is, as the case may be, the issuer or its administrative, management or supervisory bodies, the offeror, the persons asking for the admission to trading on a regulated market or the guarantor and any further persons responsible for the information given in the prospectus and identified as such in the prospectus
Profit forecast	As defined in Article 1(d) of Commission Delegated Regulation
Registration document / Universal registration document	Registration document or universal registration document as referred to in the Prospectus Regulation

Applicable accounting framework / Accounting framework	For the purpose of these Guidelines, any of the following: (i) International Financial Reporting Standards (IFRS) as adopted in the EU pursuant to Regulation (EC) 1606/2002 on the application of international accounting standards;[24] or (ii) National Generally Accepted Accounting Principles (GAAP), i.e. the accounting requirements stemming from the transposition of the European Accounting Directives into the legal system of the Member States of the European Union; or (iii) GAAP laying down equivalent requirements in accordance with Commission Regulation (EC) 1569/2007[25] establishing a mechanism for the determination of equivalence of accounting standards applied by third country issuers of securities pursuant to Directive 2003/71/EC and 2004/109/EC of the European Parliament and of the Council for issuers that are exempted from the requirement of preparing IFRS as endorsed in the EU
European Accounting Directives	The Accounting Directives refer to Directive 2013/34/EU of the European Parliament and of the Council of 26 June 2013 on the annual financial statements, Council Directive 91/674/EEC on annual accounts and consolidated accounts of insurance undertakings as well as Council Directive 86/635/EEC on annual accounts and consolidated accounts of banks and other financial institutions
Supplement or amendment	A supplement or amendment as referred to in the Prospectus Regulation
Profit estimate	As defined in Article 1(c) of Commission Delegated Regulation
Equity securities	As defined in Article 2(b) of the Prospectus Regulation
Significant financial commitment	As referred to in Article 18(4) of Commission Delegated Regulation (EU) 2019/980
Significant gross change	As defined in Article 1(e) of Commission Delegated Regulation (EU) 2019/980
Complex financial history	As referred to in Article 18(3) of Commission Delegated Regulation (EU) 2019/980
Non-equity securities	As defined in Article 2(c) of the Prospectus Regulation

[24] OJ L 243, 11.09.2002, p. 1-4.
[25] OJ L 340, 22.12.2007, p. 66-68.

Liquidity Coverage Ratio	Liquidity coverage ratio as defined in Article 4(1) of Commission Delegated Regulation (EU) 2015/61 of 10 October 2014 to supplement Regulation (EU) 575/2013 of the European Parliament and the Council with regard to liquidity coverage requirement for Credit Institutions
Minimum Capital Requirement	Minimum capital requirement as defined in Article 248 of Commission Delegated Regulation (EU) 2015/35 of 10 October 2014 supplementing Solvency II
Net Stable Funding Ratio	Net stable funding ratio as defined in Article 428(b) of Regulation (EU) 575/2013 of the European Parliament and of the Council of 26 June 2013 on prudential requirements for credit institutions and investment firms and amending Regulation (EU) 648/2012.
Total capital ratio / TCR	As defined in Article 92(2)(c) of the Capital Requirements Regulation.
Equivalent accounting framework / Equivalent third country accounting framework	See Commission Decision 2008/961/EC
Restatement of financial information	For the purpose of these Guidelines, restatement of historical financial information refers to situations when because of the change in the accounting framework that will be applied by the issuer in the next year's financial statements, the historical financial statements will be revised and presented in accordance with this new accounting framework.

3 Purpose

4. As stated in Article 16(1) of the ESMA Regulation, ESMA "… shall, with a view to establishing consistent, efficient and effective supervisory practices within the ESFS, and to ensuring common, uniform and consistent application of Union law, issue guidelines and recommendations addressed to competent authorities or financial market participants."

5. These guidelines aim to ensure that market participants have a uniform understanding of the relevant disclosure required in the various annexes included in the Commission Delegated Regulation. These guidelines are also addressed to competent authorities to assist them when assessing the completeness, comprehensibility and consistency of information in prospectuses.

4 Compliance and reporting obligations

4.1 Status of the guidelines

6. In accordance with Article 16(3) of the ESMA Regulation, competent authorities and financial market participants must make every effort to comply with these guidelines.
7. Competent authorities to which these guidelines apply should comply by incorporating them into their national legal and / or supervisory frameworks as appropriate, including where particular guidelines are directed primarily at financial market participants. In this case, competent authorities should ensure through their supervision that financial market participants comply with the guidelines.

4.2 Reporting requirements

8. Within two months of the date of publication of the guidelines on ESMA's website in all official EU languages, competent authorities to which these guidelines apply must notify ESMA whether they (i) comply, (ii) do not comply, but intend to comply, or (iii) do not comply and do not intend to comply with the guidelines.
9. In case of non-compliance, competent authorities must also notify ESMA within two months of the date of publication of the guidelines on ESMA's website in all official EU languages of their reasons for not complying with the guidelines.
10. A template for notifications is available on ESMA's website. Once the template has been filled in, it shall be transmitted to ESMA.
11. Financial market participants are not required to report whether they comply with these guidelines.

5 (Updated) Guidelines on prospectus disclosure

5.1 Introduction

12. The purpose of these Guidelines is to provide guidance to market participants relating to the assessment of the information to be supplied under certain Items of an Annex to the Commission Delegated Regulation and to promote consistency across the Union in the way that the Annexes to the Commission Delegated Regulation are applied.

13. The Guidelines relating to the disclosure of financial information have a close relationship with financial reporting. ESMA recommends that issuers involve financial reporting experts in order to ensure that the financial information in prospectuses satisfies the requirements set out in these Guidelines, as well as the general obligation in Article 6(1) of the Prospectus Regulation to ensure that their prospectus contains the information necessary for investors to make an informed assessment of the assets and liabilities, profits and losses, financial position, and prospects of the issuer and of any guarantor. Likewise, competent authorities should ensure that their supervisors are familiar with the contents of the Guidelines and that expertise in financial reporting is available to deal with issues that arise when applying these Guidelines.

14. When determining which information is to be supplied under a certain Item of an Annex to the Commission Delegated Regulation, ESMA expects that the persons responsible for the prospectus will refrain from disclosing information that is not material in the context of the issuer or the securities. As stated in Recital 27 of the Prospectus Regulation, a prospectus should not contain information that is not material or specific to the issuer and the securities concerned, as that could obscure the information relevant to the investment decision and undermine investor protection. This is also reflected in Article 6(1) of the Prospectus Regulation which states that a prospectus shall contain the necessary information which is material to an investor for making an informed assessment of the information specified in that paragraph.

15. ESMA also notes that the duplication of information in prospectuses should be avoided. Therefore, issuers may refer to where information can be found instead of duplicating it, provided that this does not harm the comprehensibility of the prospectus. For example, the persons responsible for the prospectus may cross-refer to relevant information provided in the financial statements, e.g. under IAS 7 and IAS 12, in order to provide information on treasury and funding policies required under these Guidelines.

5.2 Management report

Use of the management report

Article 2 (Annex 1, Item 4.1; Annex 15, Item 5.1) and Article 28b (Annex 34, Item 9.1) of the Commission Delegated Regulation.

16. **Guideline [1]: The persons responsible for the prospectus should ensure that material information in the prospectus is consistent, clear and comprehensible. Accordingly, the persons responsible for the prospectus should ensure the consistency of the material information included in:**

    i. **the historical financial information;**

    ii. **the information incorporated by reference or included from the management reports and consolidated management reports as referred to in Article 4 of the Transparency Directive , where applicable, and in Chapters 5 and 6 of the Accounting Directive, for the periods covered by the historical financial information including, where applicable, the sustainability reporting and related assurance opinion in accordance with the Accounting Directive; and**

    iii. **the other sections of the prospectus.**

    Where it is impracticable to ensure the consistency of specific, material information in the management report with the historical financial information or the other sections of the prospectus, the persons responsible for the prospectus should disclose this fact and identify the relevant sections or paragraphs in the management report. Additionally, the prospectus should include explanations about why it is not feasible, not practical or otherwise not relevant to ensure the consistency of the information.

    The persons responsible for the prospectus are required to either include directly or incorporate by reference all information set out in management reports and consolidated management reports.

17. Examples of where material inconsistencies may arise are:

    A. where an issuer's financial statements are restated under IFRS, but its management report contains references to, or additional explanations of, key performance indicators (KPI), alternative performance measures or amounts reported prepared under the previous accounting framework.

B. where information included the management report is outdated compared to information included in the prospectus. For example, information regarding major shareholders, resignation of key management personnel, sale of material subsidiaries, associates or joint ventures occurring after the preparation and/or publication of the management report.

18. In such circumstances and to the extent that updated information is not already included in the prospectus, the persons responsible for the prospectus should include additional explanations and, where material, the restated amounts, KPI or alternative performance measures prepared in accordance with IFRS to address any material inconsistencies identified and to ensure that the prospectus is clear, comprehensible, and internally consistent.

19. Information in management reports may naturally become inconsistent with the information elsewhere in the prospectus due to the passage of time. In such cases, it is only necessary to update the information to the extent necessary to ensure that the prospectus is comprehensible and satisfies the necessary information test in Article 6(1) PR and Article 15a(2) PR.

20. For the purposes of these Guidelines, it is considered impracticable to ensure the consistency of the information in the prospectus with the information in the management report if the person(s) responsible for the prospectus have made every reasonable effort to ensure the consistency but are unable to do so.

21. When complying with this Guideline, the persons responsible for the prospectus should avoid unnecessary repetitions of information in the prospectus.

22. Finally, ESMA clarifies that the item 9.1 of Annex 34 reference to Chapter 6 of the Accounting Directive should also be read as encompassing consolidated management reports pursuant to Article 19 and/or 29 of the Accounting Directive, where relevant.

23. **Guideline [2]: The persons responsible for the prospectus should ensure that the prospectus contains the necessary information that investors need to make an informed assessment as referred to in Article 6(1) and Article 15a(2) of Regulation (EU) 2017/1129.**

    Accordingly, where an issuer is not required to prepare a management report and/or consolidated management report as referred to in Article 4 of the Transparency Directive, where applicable, and in Chapters 5 and 6 of the Accounting Directive, the persons responsible for the prospectus should ensure that any material information that would normally be included in a management

report and is necessary for an informed investment decision as referred to Article 6(1) PR and Article 15a(2) PR is included in the prospectus.

24. For example, the persons responsible for the prospectus may satisfy this requirement by including material information that is comparable to what is specified in Article 13 of Commission Directive 2007/14/EC of 8 March 2007 regarding the management report, complemented, where applicable, by the sustainability reporting and related assurance opinion in accordance with the Accounting Directive. There may be other ways of dealing with this issue. For example, an issuer may satisfy this requirement by including information in its prospectus from a document similar to a management report as referred to in Article 4 of Directive 2004/109/EC of the European Parliament and of the Council, where applicable, and in Chapters 5 and 6 of Directive 2013/34/EU of the European Parliament and of the Council.

25. When complying with this Guideline, the persons responsible for the prospectus should avoid unnecessary repetitions of information in the prospectus.

5.3 Profit forecasts and estimates

Identification of profit forecasts

Article 2 (Annex 1, Item 3.6; Annex 15, Item 4.6), Article 7a (Annex 7, Item 3.5; Annex 16, item 4.5), Article 28a (Annex 30, Item 8.1) and Article 28b (Annex 34, Item 5.4) of the Commission Delegated Regulation.

26. **Guideline [3]: An important part of the definition of 'profit forecast' are the terms, 'minimum or maximum figure'. Profit forecasts refer to the issuer's projections for future periods, where the wording 'either directly or indirectly' indicates the likely minimum or maximum level of the issuer's future profit or loss. Instead of a precise figure, a profit forecast can also refer to a range of figures particularly when a minimum or maximum figure is mentioned or implied.**

27. Examples of profit forecasts include:

    (i) "We expect this year's profits before taxes to be between €30 million and €50 million."

    (ii) "The profit / loss is expected to be in line with the previous year."

    (iii) "The profit / loss is expected to be higher / lower than the previous year."

    (iv) "This year's annual results will be positive / negative."

28. The phrase ‘the likely level of profits or losses’ does not only refer to the profit or loss for the year (bottom line of the profit and loss account) / (bottom line of statement of profit or loss and other comprehensive income) / net profit or loss, but also to other measures of profitability when these measures convey an expectation of a future performance. For example:

Profit forecast derived from profit and loss accounts:

(i) EBITDA = Earnings before Interest, Taxes, Depreciation and Amortisation.

(ii) EBIT = Earnings before Interest and Taxes (and similar measures such as Operating Profit/Earnings/Income).

(iii) EBT = Earnings before Taxes.

(iv) Similar and adjusted versions of the examples above (such as “Adjusted EBIT” or “Recurring net income”)

29. Example of a profit forecast:

“Before the estimated impact of disposals, […] current expectations for the 20XX Financial Year are Adjusted Operating Profit of around €100 million and EBITDA […] of around €160 million.”

Accounting data and financial indicators

Article 2 (Annex 1, Item 3.6; Annex 15, Item 4.6), Article 7a (Annex 7, Item 3.5; Annex 16, item 4.5), Article 28a (Annex 30, Item 8.1) and Article 28b (Annex 34, Item 5.4) of the Commission Delegated Regulation.

30. **Guideline [4]: Accounting data or financial indicators that may, on certain conditions, be considered as constituting a profit forecast. A ‘substance over form’ approach should be adopted when considering whether financial measures should be viewed as profit forecasts for the purposes of the Prospectus Regulation.**

31. This approach is consistent with the definition of ‘profit forecast’, which includes statements that, by implication, indicate a minimum or maximum figure or a likely level of profits or losses, even if no particular figure is mentioned.

32. Examples of measures that may, on certain conditions, be considered as a profit forecast:

(i) If an issuer normally communicates financial performance on Gross Profit level, or if the issuer has rigid cost structures, forecasted Gross Profit may be deemed to be a profit forecast.

(ii) Projections of cash flow metrics could be deemed profit forecasts in specific instances if indications making it possible to deduce the likely profit level from it are given in the prospectus.

(iii) Alternative Performance Measures or Key Performance Indicators pointing into the future that are calculated (in full or in part) based on profit/loss measures. The statement 'contains data from which a calculation of such a figure for future profits and losses can be made' clarifies that the scope of the profit forecast definition encompasses forms of words from which profits or losses can be derived, even if no particular figure is mentioned and the word 'profit' is not used. With this in mind, it follows that information may be considered a profit forecast if it is possible to calculate a figure or a minimum or a maximum for the likely levels of future profit or loss in combination with other information in the prospectus.

33. Examples of profit forecasts:

(i) "Turnover for Q4 as well as costs are expected to remain the same as last year."

(ii) "We are expecting this year's turnover to remain the same and this year's EBITDA margin to rise by 5%."

34. Information does not need to relate to the entirety of the issuer's results to be a profit forecast. Where one or more segments of the issuer's business generates the majority of the issuer's profit / loss, and predictions are made about the level of the segment's profit / loss, this can also constitute a profit forecast for the issuer as a whole. Likewise, where a proposed acquisition is expected to generate the vast majority of the issuer's profit / loss, and predictions are made about the level of the target's profit / loss, that can also constitute a profit forecast for the issuer if this information is included in a prospectus.

35. The definition of 'profit forecast' in Article 1(d) of the Commission Delegated Regulation includes the phrase, '…expressly or by implication indicates'. Accordingly, if the purpose of the wording is to provide information about expected future profit / loss for a specific financial period, it is considered a profit forecast, regardless of the verb used and particularly if a specific figure is stated.

36. Examples of profit forecasts:

(i) “We hope to reach a profit of €10 million this year.”

(ii) “We aim to reach a profit of €10-12 million earnings before taxes next year.”

(iii) “Our target is to become profitable by the end of Q3 this year.

37. Long-term financial objectives, for several future periods (aggregated or not) or for a distant future period may be considered profit forecasts depending on facts and circumstances, such as the context and the way they are presented.

Wording that is not considered a profit forecast

Article 2 (Annex 1, Item 3.6; Annex 15, Item 4.6), Article 7a (Annex 7, Item 3.5; Annex 16, item 4.5), Article 28a (Annex 30, Item 8.1) and Article 28b (Annex 34, Item 5.4) of the Commission Delegated Regulation.

38. **Guideline [5]: To constitute a profit forecast, a statement must be specific with respect to (i) level of profit / loss or other measure of profitability (a number / range / floor / ceiling) and (ii) a specific financial period.**

39. Profit forecasts differ from trend information required by item 3.5.1 of Annex 1 to the Commission Delegated Regulation. In practice, there is often a fine line between what constitutes a profit forecast and what constitutes trend information. A general discussion about future prospects of the issuer under trend information will not normally constitute a profit forecast.

40. Depending on the context and whether a profit forecast can be derived when combined with other information in the prospectus, the following are examples of disclosures that are not, by themselves, profit forecasts:

(i) “We expect our sales/revenue to decline to €560 million.”

(ii) “Turnover is expected to rise by 5 % compared to last year.”

(iii) “Our target is to maintain an operating margin of 7% in the medium to long term.”

(iv) “Announcement of an amount of dividend per share.”

(v) “Description of the issuer’s dividend policy.”

41. It is not possible to remove information from the scope of the definition of profit forecast by merely stating that it is not a profit forecast. Examples of such statements include:

(i) “No profit forecast or estimate is included in this prospectus.”

(ii) “Nothing in this document is intended to be, nor should be construed as a profit forecast.”

(iii) “The foregoing statement should not be interpreted to mean X’s future earnings per share will necessarily be the same or greater than its historic earnings per share.”

The clear identification of profit forecasts

Article 2 (Annex 1, Item 3.6; Annex 15, Item 4.6), Article 7a (Annex 7, Item 3.5; Annex 16, item 4.5), Article 28a (Annex 30, Item 8.1) and Article 28b (Annex 34, Item 5.4) of the Commission Delegated Regulation.

42. **Guideline [6]: Profit forecasts and related assumptions should be clearly identified in the prospectus as such.**

43. Investors must be able to easily differentiate between a “profit/loss forecast” and other information, such as “objectives” or “trend information”.

Due care and diligence

Article 2 (Annex 1, Item 3.6.2; Annex 15, Item 4.6.2), Article 7a (Annex 7, Item 3.5.1; Annex 16, item 4.5.1) and of the Commission Delegated Regulation.

44. **Guideline [7]: The persons responsible for the prospectus should apply due care and diligence when compiling profit forecasts and estimates and should ensure that profit forecasts and estimates are not misleading to investors.**

45. The following non-exhaustive list contains factors that the persons responsible for the prospectus should take into consideration when preparing profit forecasts:

(i) past results, market analysis, strategic evolutions, market share and market position of the issuer;

(ii) financial position and possible changes therein;

(iii) the impact of an acquisition or disposal, change in strategy or any major change in environmental matters and technology;

(iv) changes in legal and tax environment; and

(v) commitments toward third parties.

46. The persons responsible for the prospectus should always assess the accuracy of the information they include in the prospectus. Due to the sensitivity of profit forecasts and estimates to changing circumstances, where a registration document or universal registration document contains profit forecasts or estimates and is used as a constituent part of a prospectus, the persons responsible for the prospectus should specifically assess whether the profit forecasts or estimates remain valid and correct. If they are no longer valid and correct, the persons responsible for the prospectus should amend the profit forecasts or estimates, as of the date of approval of the prospectus, by filing a supplement or amendment. For the avoidance of doubt, the principles for preparing profit forecasts and estimates should also apply to profit forecasts and estimates in supplements or amendments.

Principles for preparing profit forecasts and estimates

Article 2 (Annex 1, Item 3.6.3, Annex 15, Item 4.6.3), Article 7a (Annex 7, Item 3.5.2, Annex 16, Item 4.5.2) of the Commission Delegated Regulation.

47. **Guideline [8]: The persons responsible for the prospectus should ensure that profit forecasts and estimates are:**

    (i) understandable;

    (ii) reliable;

    (iii) comparable; and

    (iv) relevant.

48. Understandable: Profit forecasts and estimates should contain disclosure that is not too complex for investors to understand. For example, when it comes to the disclosure of after-tax profits that are materially affected by tax.

49. Reliable: Profit forecasts should be supported by a thorough analysis of the issuer's business and should represent factual, as opposed to hypothetical, strategies, plans and risk analysis.

50. Comparable: Profit forecasts and estimates should be drawn up in a way which makes it easy for investors to compare them with the historical and interim financial information which is included in the prospectus. For example, the same applicable accounting framework should be used and the format and presentation should be similar.

51. If a profit forecast or estimate is based on pro-forma or additional financial information, it should be made clear that this is the case. If so, the profit forecast or estimate should

be compared with the pro-forma or additional financial information. In such a situation the pro forma profit forecast or estimate should be prepared in a similar manner to the pro forma or additional information, i.e. the same principles should be used when preparing the pro forma profit forecast or estimate as when preparing the pro forma information.

52. Additional comparative information may be relevant to compare profit forecasts or estimates with historical and interim financial information. For example, if a significant legal dispute has arisen after the date on which historical financial information[26] was prepared, the impact of this uncertainty on the profit forecast or estimate should be explained, and it should also be made clear that the legal dispute did not exist at the end of the previous period.

53. If changes have occurred within the issuer's accounting policy and a profit forecast or estimate is prepared, the persons responsible for the prospectus should apply the principles of IAS 8 or any other transitional disclosure principles under IFRS[27] or a similar requirement of the applicable accounting framework. This should ensure that the profit forecast or estimate is comparable with the historical and interim financial information of the issuer. The persons responsible for the prospectus should also specify whether the profit forecast or estimate has been audited or subject to review.

54. Relevant: Profit forecasts and estimates should have an ability to influence economic decisions of investors and assist in confirming or correcting past evaluations or assessments of historical financial information.

55. The persons responsible for the prospectus should note that, as opposed to profit forecasts, profit estimates are not expected to be particularly sensitive to assumptions because estimates refer to economic transactions that have already occurred.

[26] The historical financial information concerning the preceding financial period.
[27] For example, under IFRS 16 appendix (c) paragraph C5(b).

Clean statement of comparability and consistency of the profit forecast or estimate

Article 2 (Annex 1, Item 3.6.3; Annex 15, Item 4.6.3), Article 7a (Annex 7, Item 3. 5. 2, Annex 16, Item 4.5.2) of the Commission Delegated Regulation.

56. **Guideline [9]: The persons responsible for the prospectus should ensure that the statement required is clean.**

57. The persons responsible for the prospectus should avoid qualifying that statement with any caveats.

Profit forecast or estimate in relation to a material undertaking

Article 2 (Annex 1, Item 3.6.1; Annex 15, Item 4.6.1), Article 7a (Annex 7, Item 3.5.1, Annex 16, Item 4.5.1), Article 28a (Annex 30, Item 8.1) and Article 28b (Annex 34, Item 5.4.1) of the Commission Delegated Regulation.

58. **Guideline [10]: Where there is an outstanding profit forecast or estimate related to a material undertaking which the issuer has acquired, the persons responsible for the prospectus should consider whether the profit forecast or estimate made by the material undertaking is still valid and correct, and whether it is necessary to provide disclosure on this matter in the prospectus.**

59. Where applicable, the persons responsible for the prospectus should report the effects of the acquisition and the profit forecast or estimate made by the material undertaking on the issuer’s financial position and / or profits, as if the profit forecast or estimate had been made by the issuer itself. Before making such disclosure, the persons responsible for the prospectus should check if the profit forecast or estimate of the material undertaking is prepared using the same accounting principles as the ones used by the issuer / combined entity - see also Guideline [8] and the sub-heading ‘comparable’.

5.4 Historical financial information

Examples relating to Guidelines [11] to [12] on historical financial information

60. Guidelines [11] to [12] apply to issuers that will adopt a new accounting framework in their next published financial statements. Points (i), (ii) and (iii) below are used as examples to illustrate when the Guidelines should be applied.

    (i) The issuer is a new applicant for admission to trading on an EU regulated market of equity securities in 2026. It used national GAAP as the basis for its consolidated financial statements in 2024 and 2025. Pursuant to the EU Regulation 1606/2002, the issuer will have to apply IFRS as of 1 January 2026, i.e. for the reporting periods ending after the date of the admission to trading (and present comparatives for 2025). If the prospectus for the IPO is approved after April 2026, the next published annual financial statements will be the 2026 financial statements, i.e. IFRS financial statements as at 31 December 2026. These financial statements will be published by April 2027 at the latest.

(ii) A similar situation is that of an issuer which always presented historical financial information under national GAAP. However, this issuer decides at the time of the public offer to voluntarily adopt IFRS for the preparation of the financial statements for the reporting periods starting on or after 1 January 2026.

(iii) A third example is that of an issuer which prepared its statutory financial statements in 2024 and 2025 under national GAAP of Member State A. However, as of 1 January 2026 the issuer has moved its registered office to Member State B. As a result of this change, the issuer will adopt the accounting framework of that Member State.

61. The examples refer to mandatory and / or voluntary adoption of a new accounting framework. For the purpose of the restatement, it is not relevant whether the adoption of a new accounting framework is mandatory or voluntary.

Restatement of historical financial information

Article 2 (Annex 1, Item 6.1.4; Annex 15, Item 10.1.4), Article 10 (Annex 9, Item 8.2.3) of the Commission Delegated Regulation.

62. **Guideline [11]: The persons responsible for the prospectus should use the accounting framework that will be adopted in the next published financial statements when restating historical financial information.**

63. In order to do so, the persons responsible for the prospectus should apply the new accounting framework to the period being restated (for instance, IFRS as endorsed in the Union). The restatement should apply to all parts and aspects of the financial information. However, the obligation to restate the financial information in a form consistent with that which will be adopted in the issuer's next published annual financial statements does not mean that an issuer should adopt amended or new standards before their effective date.

64. For example, an issuer who is going to adopt IFRS as of 1 January 2026 should apply the relevant requirements under IFRS. In particular, the issuer should apply IFRS 1 which sets out principles for adopting IFRS for the first time and provides guidance in

relation to the transition from the accounting framework which the issuer previously applied (e.g. national GAAP).

65. Where the prospectus contains pro forma financial information, the persons responsible for the prospectus should draw up the pro forma financial information in accordance with the new accounting framework applied to the restated financial information. This will enable investors to compare the restated financial information with the pro forma financial information.

66. Where the entire annual historical financial information that is required to be included in the prospectus has been restated to comply with the Commission Delegated Regulation, the persons responsible for the prospectus may present the audited restated financial statements and their comparatives in the prospectus as a substitute for the statutory financial statements. In this way, the statutory financial statements could be replaced by the audited restated financial information covering the time period required pursuant to the Commission Delegated Regulation.

67. Where the requirement to restate the historical financial information applies to prospectuses that are required to include only one year of historical financial information, the persons responsible for the prospectus should restate the historical financial information for that year and present it under the new accounting framework. When the applicable accounting framework requires that the financial statements of the last year include comparative information and the issuer prepares such financial statements that contain comparative information, this should be included in the prospectus.

Audit of the restated historical financial information

Article 2 (Annex 1, Item 6.1.4; Annex 15, Item 10.1.4), Article 10 (Annex 9, Item 8.2.3) of the Commission Delegated Regulation.

68. **Guideline [12]: The persons responsible for the prospectus should ensure that the audit report produced for the purposes of the prospectus covers the restated historical financial information, including any comparative information in accordance with the new accounting framework, presented in the prospectus.**

69. Where applicable, the audit report will be presented in accordance with the Audit Directive and the Audit Regulation. Where these are not applicable, the following should be applied:

(i) the auditor should audit the restated financial information in accordance with auditing standards applicable in a Member State or equivalent standards[28]. The auditor should include an audit opinion regarding whether the restated historical financial information gives, for the purposes of the prospectus, a true and fair view in accordance with the relevant accounting framework; and

(ii) if the auditor has refused to provide an audit report on the restated historical financial information, or if the auditor has included qualifications, modifications of opinion, disclaimers or an emphasis of matter in the audit report, the persons responsible for the prospectus should reproduce the qualifications, modifications, disclaimers or emphasis of matter in full in the prospectus and give the reasons for them.

70. Cases in which the competent authority requests additional disclosures or even a restatement of the accounts following a review of the statutory financial information should be distinguished from the cases where a restatement is made for example in accordance with Annex 1, Item 6.1.4. This Guideline will apply if the restatement is made in accordance with Annex 1, Item 6.1.4, or other Annex Items relating to the change of accounting framework. However, when a restatement is made by the issuer as a result of an enforcement procedure, the restated information should be included in the prospectus along with the original accounts, unless the original accounts are officially corrected (reissued). In this case, the restated information does not necessarily have to be audited as this will depend on the circumstances of the case.

Content of historical annual financial information

Article 2 (Annex 1, Item 6.1.5; Annex 15, Item 10.1.5), Article 7a (Annex 7, Item 5.1.4; Annex 16, Item 9.1.4), Article 28b (Annex 34, Item 8.2.2) and Article 28d (Annex 35, Item 8.2.2) of the Commission Delegated Regulation.

71. **Guideline [13]: If the applicable accounting standards do not require the inclusion in the annual financial information of some components of the financial statements required by the applicable Annexes of the Commission Delegated Regulation, the persons responsible for the prospectus should ensure that the additional statements required by that Regulation are included in the prospectus.**

72. In some cases, the applicable accounting framework will not require issuers to prepare all the components of the historical financial information required under the relevant

[28] The equivalence regime set out in Articles 45 and 46 of the Audit Directive allows audit reports issued by auditors registered in a third country to be valid in the Union when a third country has been deemed as equivalent.

Annexes of Commission Delegated Regulation, for instance the cash flow statement. In such cases, the persons responsible for the prospectus should prepare the missing information for the purposes of the prospectus. Where the applicable accounting framework contains principles for the preparation of such information, the persons responsible for the prospectus should follow those principles. Where the applicable accounting framework does not contain such principles, the persons responsible for the prospectus should consider following the principles set out in IFRS to the extent possible.

5.5 Pro forma financial information

Assessing if a transaction constitutes a significant gross change or a significant financial commitment

Article 1(e) and Article 18(4) of the Commission Delegated Regulation.

73. **Guideline [14]: To assess whether a transaction constitutes a significant gross change within the meaning of Article 1(e) of the Commission Delegated Regulation or a significant financial commitment within the meaning of Article 18(4) of that Regulation, the persons responsible for the prospectus should consider the size of the transaction relative to the size of the issuer's business. This should be done based on figures which reflect the issuer's business before the transaction took place and by using appropriate indicators of size which will generally be one of the following line items:**

    (i) total assets;

    (ii) revenue; or

    (iii) profit or loss.

74. Where those indicators of size produce an anomalous result or are inappropriate to the specific industry of the issuer or to the transaction itself, the persons responsible for the prospectus may use alternative indicators. For instance, an anomalous result could arise where a large company, with a profit close to zero or a loss, acquires a company with much smaller assets and revenue but which has a small positive profit. This could lead the profit of the acquiring company to increase by more than 25%. However, considering the acquisition of the small company as a significant gross change could be misleading. In such cases, the persons responsible for the prospectus should discuss their proposals for alternative indicators with the competent authority during the prospectus approval process.

75. The calculation of whether the 25% threshold is reached should be based on the size of the transaction relative to the historical financial information before the transaction took place. For example, in the case of an acquisition, the persons responsible for the prospectus should use figures which do not include the acquired company. They should normally use figures from the issuer’s audited historical financial information for the last financial year.

76. The calculation of the indicators in paragraph 74 should be made on an annual basis, regardless of the figures which are used. This should be done by using financial statement figures covering a 12-month period to remove any effect of seasonality during the year.

77. Sometimes an issuer will publish a prospectus – including pro forma financial information to cover a significant gross change, complex financial history or significant financial commitment (‘the first transaction’) – and subsequently undertake or commit to undertake a second transaction and prepare a second prospectus, without publishing any financial information between the two prospectuses. In such cases, the persons responsible for the prospectus should use the historical information, i.e., the issuer’s financial information before the first transaction, to determine if the second transaction constitutes a significant gross change or a significant financial commitment. Where the second transaction constitutes a significant gross change or a significant financial commitment, and pro forma financial information is therefore required, the persons responsible for the prospectus should cover both the first and the second transaction in the pro forma financial information[29].

78. If an issuer undertakes or commits to undertake several transactions, which individually do not constitute more than a 25% variation to one or more indicators of the size of the issuer’s business but which collectively constitute more than a 25% variation, the persons responsible for the prospectus should include pro forma financial information unless it is disproportionately burdensome to produce such pro forma financial information. If an issuer undertakes or commits to undertake several transactions, and only one of them constitutes more than a 25% variation to one or more indicators of the size of the issuer’s business, the persons responsible for the prospectus should include pro forma financial information covering all the transactions unless it is disproportionately burdensome to produce pro forma financial information for the transactions which do not constitute more than a 25% variation. When determining if it is disproportionately burdensome, the persons responsible for the prospectus should consider the costs of producing the pro forma financial information versus the value of

[29] In this example, the second transaction concerns a change which is 25% or more. However, for the sake of clarity, a transaction below 25% may also need to be disclosed via pro forma financial information. The explanatory text in paragraph 78 sets out a general principle of aggregation which should always be considered.

the information for investors. If it is determined that it is disproportionately burdensome, the persons responsible for the prospectus should explain to the competent authority why they consider it disproportionately burdensome.

79. One example of a situation that could be considered as disproportionately burdensome is where an issuer has undertaken a transaction which constitutes a 27% increase to its total assets and another transaction which constitutes a 1% increase. In this case, the persons responsible for the prospectus might argue that it is disproportionately burdensome to produce pro forma financial information for the 1% increase. Another example could be where an issuer has undertaken transactions which amount to a 30%, 20% and 5% change. Applying the principles throughout Guideline [14], the following conclusions might arise depending on the specific situation and the case:

    (i) the impact of the 30% transaction is described using pro forma because it exceeds the 25% threshold. It has been demonstrated to the competent authority that the 20%[30] and 5% transactions are both disproportionately burdensome to describe. Therefore, only the 30% transaction is described;

    (ii) the impact of the 30%, 20% and 5% transactions is described using pro forma. The impact of the 30% transaction is described because it exceeds the 25% threshold and the impact of the 20% and 5% transactions are described due to the application of the aggregation principle. In this case, it has not been successfully argued that it is disproportionately burdensome to describe the 20% and 5% transactions; or

    (iii) the impact of the 30% and 20% transactions is described using pro forma but not the 5% transaction. The 30% transaction is described using pro forma because it exceeds the 25% threshold and the 20% transaction is described due to the application of the aggregation principle. In this case it has not been successfully argued that it is disproportionately burdensome to describe the 20% transaction, but it has been successfully argued that it is disproportionately burdensome to describe the 5% transaction.

[30] In ESMA's view, it is only in rare circumstances that the persons responsible for the prospectus will be able to argue that disclosure concerning the 20% transaction is disproportionately burdensome.

Hypothetical date of the transaction (pro forma profit and loss account)

Article 2 (Annex 1, Item 6.5; Annex 15, Item 10.5), Article 28a(1) (Annex 30, Item 5.4.1) and Article 28b(1) (Annex 34, Item 8.5.1) of the Commission Delegated Regulation.

80. **Guideline [15]: In case of a significant gross change:**

   (i) where the persons responsible for the prospectus prepare pro forma financial information with reference to the last completed financial period, they should draw up the pro forma profit and loss account as if the transaction had been undertaken on the first day of that period; and / or

   (ii) **where the persons responsible for the prospectus prepare pro forma financial information with reference to the most recent interim period for which relevant unadjusted information has been published or is included in the registration document / prospectus, they should draw up the pro forma profit and loss account as if the transaction had been undertaken on the first day of that period.**

81. When the issuer's business has undergone a significant gross change and pro forma financial information is prepared, the persons responsible for the prospectus should perform a simulation of how the transaction would have affected the issuer if it had taken place at an earlier date. This date is independent from the date on which the prospectus is approved.

82. For example, an equity prospectus is drawn up in May 2027 and includes audited historical financial information covering 2025 and 2026. The date of the balance sheet which is included in the 2026 historical financial information is 31 December 2026. The issuer has published unaudited financial information for the first quarter of 2027, including a balance sheet dated 31 March 2027, which is also included in the prospectus. The issuer's total assets increased by 27% in April 2027 due to the acquisition of Company XYZ.

   According to Annex 20, Item 2.2(a) and (b) of the Commission Delegated Regulation pro forma financial information may only be published in respect of:

   A. the last completed financial period; and / or

   B. the most recent interim period for which relevant unadjusted information has been published or is included in the registration document / prospectus.

   On that basis, the persons responsible for the prospectus could draw up the pro forma profit and loss account as if the issuer's acquisition of Company XYZ had taken place on 1 January 2026 'and / or' as if the issuer's acquisition of Company XYZ had taken place on 1 January 2027.

While Annex 20 provides an 'and / or' option, in this example, it would be best to present the pro forma profit and loss information for the full financial period of 2026 - see also Guideline [17] paragraph 90 and the point referring to seasonality. Therefore, the persons responsible for the prospectus should prepare the pro forma information as of 1 January 2026.

However, there may be a situation where it is necessary under Article 6 of the Prospectus Regulation to require the information for both the full financial period and the interim period and this is permitted by Annex 20. In such a case, the pro forma profit and loss account for both periods should be drawn up as if the transaction had been undertaken on the first date of the first period.

83. The persons responsible for the prospectus should make sure that any interim financial information used as the basis for the pro forma profit and loss account has been prepared with due care.

Hypothetical date of the transaction (pro forma balance sheet)

Article 2 (Annex 1, Item 6.5; Annex 15, Item 10.5), Article 28a(1) (Annex 30, Item 5.4.1) and Article 28b(1) (Annex 34, Item 8.5.1) of the Commission Delegated Regulation.

84. **Guideline [16]: In case of a significant gross change:**

(i) **when the persons responsible for the prospectus prepare pro forma financial information with reference to the last completed financial period, they should draw up the pro forma balance sheet as if the transaction had been undertaken on the last day of that period; and / or**

(ii) **when the persons responsible for the prospectus prepare pro forma financial information with reference to the most recent interim period for which relevant unadjusted information has been published or is included in the registration document / prospectus, they should draw up the pro forma balance sheet as if the transaction had been undertaken on the last day of that period.**

85. Please refer to the example in paragraph 82:

According to Annex 20, Item 2.2(a) and (b) of the Commission Delegated Regulation pro forma financial information may only be published in respect of:

A. to the last completed financial period; and / or

B. the most recent interim period for which relevant unadjusted information has been published or are included in the registration document / prospectus.

On that basis, the persons responsible for the prospectus could draw up the pro forma balance sheet as if the issuer's acquisition of Company XYZ had taken place on 31 December 2026 'and / or' as if the issuer's acquisition of Company XYZ had taken place on 31 March 2027.

While Annex 20 provides an 'and / or' option, in the case of balance sheet information, it may only be relevant for the pro forma financial information to be presented for one period. In this example, the pro forma financial information should be drawn up as if the acquisition had taken place on 31 March 2027.

86. The persons responsible for the prospectus should make sure that any interim financial information used as the basis for the pro forma balance sheet has been prepared with due care.

Time period covered by pro forma information

Article 2 (Annex 1, Item 6.5; Annex 15, item 10.5), Article 18 (Annex 20, Item 2.2), Article 28a(1) (Annex 30, Item 5.4.1) and Article 28b(1) (Annex 34, Item 8.5.1) of the Commission Delegated Regulation in light of the principle of consistency laid down in Article 2(r) of the Prospectus Regulation.

87. **Guideline [17]: The persons responsible for the prospectus should ensure that the time period covered by the pro forma profit and loss account / balance sheet is consistent with the financial information included in the prospectus.**

88. The time period for pro forma financial information should be consistent with the time period covered by the financial information in the registration document or prospectus. As such, the persons responsible for the prospectus can draw up pro forma financial information in relation to:

(i) the latest financial year which has closed; and / or

(ii) the interim financial period (e.g. in relation to the latest half year or quarter) for which the issuer has published financial information; and / or

(iii) the shorter period that the issuer has been in operation.

89. As regards interim financial information, while the persons responsible for the prospectus should normally use half-yearly financial information when drawing up pro forma statements, they may use quarterly financial information where such information has been prepared with the same level of care as the half-yearly information, e.g. by applying the principles of IAS 34. The half-yearly and quarterly financial information will either be information which the issuer has already published, for example, to comply with the requirements of the Transparency Directive, or which the persons responsible for the prospectus are including in the prospectus.

90. Where the prospectus only contains annual financial statements, the pro forma profit and loss account / balance sheet should cover the full year. Where the prospectus contains annual financial statements as well as interim financial information, the persons responsible for the prospectus may decide to cover only the interim period, only the full year, or both the interim period and the full year in the pro forma profit and loss account/ balance sheet. However, if the persons responsible for the prospectus only cover the interim period in the pro forma profit and loss account, they should ensure that this will sufficiently describe how the transaction might have affected the earnings of the issuer. For example, where the issuer's business is affected by seasonality it may not be sufficient to only cover the interim period, and the pro forma profit and loss account may need to cover the full year.

91. To comply with the requirement to include historical unadjusted information in the pro forma profit and loss account / balance sheet, the persons responsible for the prospectus should normally use the (i) audited historical financial information for the last completed financial period (ii) or the most recent interim financial information (e.g. in relation to the latest half year or quarter) published by the issuer or included in the prospectus before the transaction took place. In specific circumstances, this rule will not apply, for example, when the issuer has drawn up financial information specifically for the purpose of the prospectus (e.g. a newly incorporated entity without any previous historical financial information).

Transaction already covered in historical or interim financial information

Article 2 (Annex 1, Item 6.5; Annex 15, Item 10.5), Article 18 (Annex 20, Item 1.1(b)), Article 28a(1) (Annex 30, Item 5.4.1) and Article 28b(1) (Annex 34, Item 8.5.1) of the Commission Delegated Regulation.

92. **Guideline [18]: The persons responsible for the prospectus are not required to include a pro forma profit and loss account / balance sheet in the prospectus if the transaction is already fully reflected in the profit and loss account / balance**

sheet contained in the historical or interim financial information in the prospectus.

93. If the transaction is already fully reflected in the profit and loss account / balance sheet in the historical or interim financial information included in the prospectus, there is no need to provide a pro forma profit and loss account / balance sheet, as investors have already been provided with the necessary information. For example, where an issuer underwent a significant gross change in November 2025 and a prospectus is prepared in March 2026 containing audited annual financial statements for 2025, the persons responsible for the prospectus should include a pro forma profit and loss account, because the profit and loss account in the 2025 annual financial statement does not fully reflect the impact of the transaction for the entire year. However, the persons responsible for the prospectus do not need to include a pro forma balance sheet if the balance sheet in the 2025 annual financial statement fully reflects the transaction.

Using other information than pro forma financial information

Article 2 (Annex 1, Item 6.5; Annex 15, Item 10.5), Article 28a(1) (Annex 30, Item5.4.1) and Article 28b(1) (Annex 34, Item 8.5.1) of the Commission Delegated Regulation.

94. **Guideline [19]: In the case of a significant gross change, the persons responsible for the prospectus may exceptionally, in agreement with the competent authority, describe the effect of the transaction other than through pro forma financial information.**

95. As a rule, the persons responsible for the prospectus should provide pro forma financial information in accordance with Annex 20 of the Commission Delegated Regulation to reflect a significant gross change. However, in exceptional situations they may be able to describe the effect of the transaction:

    (i) by providing only a pro forma profit and loss account and no pro forma balance sheet or by providing only a pro forma balance sheet and no pro forma profit and loss account (even if the transaction is not reflected in the profit and loss account / balance sheet contained in the historical or interim financial information in the prospectus, as described in Guideline [18]);

    (ii) by providing some elements of a pro forma profit and loss account which are relevant and not a full pro forma profit and loss account (e.g. a pro forma profit and loss account which might exclude a net result) to facilitate an investor's understanding of certain impacts on items such as turnover or operating profit. In this case, these elements should be covered by an auditors' report and should be unbiased, i.e. it should show pro forma losses as well as gains; or

(iii) by providing only narrative information and neither a pro forma profit and loss account nor a pro forma balance sheet.

96. These exceptional situations may arise, but are not limited to, where:

(i) the issuer will acquire another entity and it is not reasonably possible to obtain the relevant financial information relating to that entity;

(ii) the issuer has acquired an asset and insufficient financial information is available;

(iii) pro forma financial information would not accurately describe the effect of the transaction.

97. Whenever such an exceptional situation arises, it is important to remember that Article 6 of the Prospectus Regulation is relevant in respect of the effect of the transaction being described.

98. The persons responsible for the prospectus should obtain the agreement of the competent authority before proceeding with the approach described in paragraph 95. If the persons responsible for the prospectus follow the approach described in paragraph 95 point (iii), they are not required to include a report prepared by the independent accountants or auditors.

Which events to cover with pro forma financial information / presentation of adjustments

Article 2 (Annex 1, Item 6.5; Annex 15, Item 10.5), Article 18 (Annex 20, Item 2.3(b) and (c)), Article 28a(1) (Annex 30, Item 5.4.1) and Article 28b(1) (Annex 34, Item 8.5.1) of the Commission Delegated Regulation.

99. **Guideline [20]: When preparing pro forma adjustments, the persons responsible for the prospectus should reflect the transaction giving rise to the pro forma financial information regardless of whether the transaction has already occurred or has not yet occurred. In doing so, they should only reflect matters which are:**

(i) an integral part of the transaction; and

(ii) capable of a reasonable degree of objective determination.

100. The pro forma adjustments should cover the transaction giving rise to the pro forma financial information regardless of whether the transaction has already occurred (in the case of a significant gross change or a complex financial history) or has yet to occur (in case of a significant financial commitment).

101.For example, an issuer might undertake a capital increase (requiring a prospectus) to raise funds for the acquisition of another entity. The acquisition might constitute a significant financial commitment. If so, this will trigger a need for pro forma financial information to illustrate the impact of the acquisition as if it had taken place at an earlier date. In addition to illustrating the impact of the acquisition, the persons responsible for the prospectus should also cover the impact of the capital increase and / or any other financial consideration involved, e.g. any debt issuance or other financial contracts needed to complete the acquisition. If there is much uncertainty regarding subscriptions for the offer, the persons responsible for the prospectus should consider adding a risk factor in that regard.

Presentation of adjustments in pro forma information

102.Pro forma adjustments must present all significant effects directly attributable to the transaction. However, the persons responsible for the prospectus should not include future effects which are very uncertain, as this could give a misleading picture of the transaction. In particular, pro forma financial information should generally not include adjustments which are dependent on actions to be taken once the transaction has been completed, even where such actions are central to the issuer's purpose in entering into the transaction, e.g. synergies. In addition, the persons responsible for the prospectus should not, as a rule, include deferred or contingent consideration, other than consideration that is recognised as part of the consideration transferred in exchange for the acquiree under the applicable accounting framework, if that consideration is not directly attributable to the transaction but to a future event. If deferred or contingent consideration is capable of a reasonable degree of objective determination it may be included on a case-by-case basis, depending on the use of the pro forma information and after discussion with the competent authority.

103.The persons responsible for the prospectus should always base pro forma adjustments on reliable and documented evidence. Such evidence will typically consist of published accounts, management accounts, other financial information and valuations contained in the documentation relating to the transaction, purchase and sale agreements and other agreements to the transaction covered by the prospectus. For instance, in relation to management accounts, the interim figures for an undertaking being acquired may be derived from the consolidation schedules underlying that undertaking's interim statements.

Accountant / auditor report

Article 2 (Annex 1, Item 6.5; Annex 15, Item 10.5), Article 18 (Annex 20, Section 3), Article 28a(1) (Annex 30, Item 5.4.1) and Article 28b(1) (Annex 34, Item 8.5.1) of the Commission Delegated Regulation.

104. **Guideline [21]: Where the persons responsible for the prospectus prepare pro forma financial information in accordance with Annex 20 of the Commission Delegated Regulation, they should ensure that they do so in a manner that permits the independent accountants or auditors to prepare their report in accordance with the exact wording set out in Section 3 of that Annex.**

105. The purpose of the report prepared by the independent accountants or auditors is to express an opinion that the pro forma financial information was properly compiled by the persons responsible for the prospectus, i.e. properly compiled on the basis stated and that the basis is consistent with the accounting policies of the issuer.

106. The persons responsible for the prospectus should therefore compile the pro forma financial information in a manner which permits the independent accountants / auditors to say that, in their opinion, the pro forma financial information has been properly compiled on the basis stated, and that this basis is consistent with the accounting policies of the issuer.

107. Section 3 of Annex 20 implies that qualifications or emphases of matter should not arise in respect of how the pro forma information was compiled. If, however, the independent accountant or auditor wants to draw an investor's attention to the fact that qualifications or emphases of matter had arisen in respect of the underlying unadjusted historical financial information used to prepare the pro forma financial information, they are not prohibited from doing so. If qualifications or emphases of matter are included in that context, they should be presented separately from the opinion concerning how the pro forma information was compiled in the report.

Voluntary pro forma financial information

Article 6 of the Prospectus Regulation read in conjunction with Article 2 (Annex 1, Item 6.5; Annex 15, Item 10.5), Article 18 (Annex 20), Annex 28a(1) (Annex 30, Item 5.4.1) and Article 28b(1) (Annex 34, Item 8.5.1) of the Commission Delegated Regulation.

108. **Guideline [22]: The persons responsible for the prospectus should comply with the requirements of Annex 20 of the Commission Delegated Regulation if pro forma financial information is included in a prospectus on a voluntary basis.**

109. Even in the absence of a significant gross change, a significant financial commitment or a complex financial history, the persons responsible for the prospectus may decide to voluntarily include pro forma financial information in the prospectus. The same applies to issuers of non-equity securities.

110. The fact that pro forma financial information is included in the prospectus on a voluntary basis should not imply that it is possible for this information to be provided with less care than when included on a mandatory basis. Pro forma financial information, if not prepared with due care, might confuse or even mislead investors. Therefore, the persons responsible for the prospectus should apply the requirements of Annex 20 if they decide to include pro forma financial information on a voluntary basis.

5.6 Interim financial information

Compilation of interim financial information

Article 2 (Annex 1, Item 6.2.1; Annex 15, Item 10.2.1), Article 7a (Annex 7, Item 5.1.7; Annex 16, Item 9.1.7) of the Commission Delegated Regulation.

111. **Guideline [23]: Where the most recent financial information published by the issuer is the half-yearly financial report prepared in accordance with the Transparency Directive, the persons responsible for the prospectus should include in the registration document at least the condensed set of financial statements included in that half-yearly financial report.**

Where the most recent financial information published by an issuer is the quarterly financial report, the persons responsible for the prospectus prepared in accordance with Annex 1 or Annex [15] should include in the registration document at least the condensed set of financial statements included in that quarterly financial report.

112. Two different situations can be envisaged:

(i) An issuer submits a prospectus for approval on 30 July. The issuer has published half-yearly financial information (30 June) and financial information on the first quarter. In that case the latest interim financial information is sufficient (half-yearly).

(ii) An issuer submits a prospectus prepared in accordance with Annex 1 or Annex 15 for approval on 30 October. The issuer has published financial information on the third quarter and half-yearly financial information (30 June). In that case the latest interim financial information is not sufficient, and the issuer should include in its prospectus both quarterly (Q3) and half-yearly financial information provided that there is no duplication of information. When interim financial information for the third quarter also covers the first nine months of the year, and is prepared in accordance with the same accounting standard for interim reporting (e.g. IAS 34) as the half-yearly financial information, the half-yearly financial information does not need to be disclosed.

Relevant accounting policies and principles

Article 2 (Annex 1, Item 6.2.1; Annex 15, Item 10.2.1), Article 7a (Annex 7, Item 5.1.7; Annex 16, Item 9.1.7) of Commission Delegated Regulation, should be read in conjunction with the principle of consistency laid down in Article 2(r) of the Prospectus Regulation.

113. **Guideline [24]: When the issuer has published quarterly or half-yearly financial information, the persons responsible for the prospectus should present the interim financial information according to the issuer's accounting framework.**

5.7 Working capital statements

Determining whether the working capital statement should be clean or qualified

Article 12(1) (Annex 11, Item 3.1.1); (Annex 15, Item 6.1.1), Article 14 (Annex 13, Item 1.1), Article 28a(1) (Annex 30, Item 13.1) and Article 29b(1) (Annex 34, Item 14.1) of the Commission Delegated Regulation, which stipulate that the working capital statement can either reflect that the issuer has sufficient working capital to meet its present requirements or that it does not have sufficient working capital to do so, read in light of the duration of the validity of the prospectus established in Article 12 of the Prospectus Regulation.

114. **Guideline [25]: Where an issuer can state without qualifying wording that it has sufficient working capital to meet its present requirements, it should provide a 'clean' working capital statement. Where the issuer cannot state without qualifying wording that it has sufficient working capital to meet its present requirements, it should provide a 'qualified' working capital statement.**

115. The persons responsible for the prospectus can meet the requirement to include a working capital statement in the prospectus either:

(i) by including a clean working capital statement, stating that the issuer, in its own opinion and in line with the duration of the validity of the prospectus established in Article 12 of the Prospectus Regulation, has sufficient working capital for a period of at least 12 months; or

(ii) by including a qualified working capital statement, stating that the issuer, in its own opinion, does not have sufficient working capital and explaining how it proposes to provide the additional working capital needed.

116. When considering whether its working capital statement should be clean or qualified, the issuer should assess whether it is able to access cash and other available liquid resources in order to meet its liabilities as they fall due.

117. The working capital statement should be consistent with the other parts of the prospectus. Where other parts of the prospectus, for example the risk factors, describe elements that could adversely impact the issuer's ability to meet its present requirements, the issuer should not make a clean working capital statement. Where the auditor's report contains a statement relating to 'going concern', and the working capital statement is clean, the persons responsible for the prospectus should provide explanation for this in the prospectus.

118. An issuer may consider that it has sufficient working capital and that its working capital statement should therefore be clean, but at the same time wish to include qualifying wording such as assumptions, sensitivities, risk factors or potential caveats in the statement. If an issuer finds it necessary to include such qualifying wording, this implies that it cannot firmly state that it has sufficient working capital to meet its present requirements, and it should therefore provide a qualified working capital statement instead of a clean one.

119. When providing a clean working capital statement, an issuer should disclose whether the proceeds of the offer have been included in the calculation of its working capital. For the avoidance of doubt, such disclosure is not considered a qualification or a caveat, but information on the basis of preparation of the working capital statement that is necessary for an investor to make an informed assessment.

120. It is not acceptable for the issuer to state that it is unable to confirm whether it has sufficient working capital. In such cases, the issuer should provide a qualified working capital statement.

Robust procedures

Article 12(1) (Annex 11, Item 3.1.1); (Annex 15, Item 6.1.1), Article 14 (Annex 13, Item 1.1), Article 28a(1) (Annex 30, Item 13.1) and Article 28b(1) (Annex 34, Item 14.1) of the Commission Delegated Regulation.

121. **Guideline [26]: The issuer should prepare its working capital statement based on robust procedures such that there is very little risk that the statement is challenged.**

122. The issuer should follow procedures appropriate to ensure the robustness of the statement. Such procedures will normally include:

(i) preparing unpublished supporting prospective financial information in the form of internally consistent cash flow, profit and loss and balance sheet information;

(ii) conducting business analysis covering both the issuer's cash flows and the terms and conditions and commercial considerations associated with banking and other financing relationships;

(iii) considering the issuer's strategy and plans and the related implementation risks together with checks against evidence and analysis; and

(iv) assessing whether there are sufficient resources to cover a reasonable worst- case scenario (sensitivity analysis). Where there is insufficient headroom between required and available funding to cover reasonable alternative scenarios, the issuer will need to reconsider its business plans or arrange additional financing if it wishes to provide a clean working capital statement.

Not open to more than one interpretation

Article 12(1) (Annex 11, Item 3.1.1); (Annex 15, Item 6.1.1), Article 14 (Annex 13, Item 1.1), Article 28a(1) (Annex 30, Item 13.1) and Article 28b(1) (Annex 34, Item 14.1) of the Commission Delegated Regulation.

123. **Guideline [27]: The issuer should ensure that the working capital statement is not open to more than one interpretation.**

124. Regardless of whether the working capital statement is clean or qualified, the issuer should make sure it sends a clear message, so that it is obvious to investors whether in the issuer's opinion there is sufficient working capital.

125. In a clean working capital statement, issuers should say that their working capital 'is sufficient'. They should avoid saying that they 'will' or 'may have' sufficient working capital or that they 'believe' they have sufficient working capital, as these latter terms could create confusion regarding when the working capital will be sufficient and which events would have to occur for the working capital to be sufficient. A clean working capital statement could for example have the following wording: 'In the company's opinion, its working capital is sufficient to meet its present requirements over at least the next twelve months.'

Content of a qualified working capital statement

Article 12(1) (Annex 11, Item 3.1.1); (Annex 15, Item 6.1.1), Article 14 (Annex 13, Item 1.1), Article 28a(1) (Annex 30, Item 13.1) and Article 28b(1) (Annex 34, Item 14.1) of the Commission Delegated Regulation.

126. **Guideline [28]: In a qualified working capital statement, the issuer should state that it does not have sufficient working capital for its present requirements. Furthermore, it should describe the following factors:**

(i) timing;

(ii) shortfall;

(iii) action plan; and

(iv) implications.

127. The issuer should explicitly state that it does not have sufficient working capital to meet its present requirements. After this statement, it should provide information on the factors listed in paragraph 126 in order to ensure that investors are fully informed as regards the issuer's actual working capital position.

128. Timing: The working capital shortfall could arise immediately or sometime in the future, and investors need information on the timing to assess the urgency of the problem. The issuer should therefore state when it expects to run out of working capital.

129. Shortfall: To allow investors to understand the magnitude of the problem, the issuer should state the approximate amount of the working capital shortfall.

130. Action plan: The issuer should describe how it plans to rectify the working capital shortfall. The description should include details of specific proposed actions, for example refinancing, renegotiation of or new credit terms / facilities, decrease in discretionary capital expenditure, revised strategy / acquisition programme or asset

sales. The issuer should explain the timing of the proposed actions and how confident it is that they will be successful.

131. Implications: Where relevant, the issuer should state the consequences of any of the actions proposed in the action plan being unsuccessful (for example whether the issuer is likely to enter into administration or receivership and, if so, when).

Rules for calculation of working capital

Article 12 (Annex 11, Item 3.1.1; Annex 15, Item 6.1.1), Article 14 (Annex 13, Item 1.1), Article 28a(1) (Annex 30, Item 13.1) and Article 28b(1) (Annex 34, Item 14.1) of the Commission Delegated Regulation.

132. **Guideline [29]: When the issuer calculates its working capital, it should only count the proceeds of an offering if the offering is underwritten on a firm commitment basis or if irrevocable undertakings have been given. If only a portion of an offering is underwritten or covered by irrevocable undertakings, only that portion of the offering may be included in the calculation of the working capital. The issuer should not count such proceeds when calculating its working capital if investors would be exposed to the risk that the issuer continues with an offer after the underwriting agreement has been cancelled or the irrevocable undertakings are withdrawn.**

133. Investors should not be confronted with uncertainty about the quality of the underwriting when subscribing for their shares. This is particularly the case when the issuer counts proceeds of the offering when calculating its working capital. As such, the issuer should consider any conditionality in the underwriting agreement or irrevocable undertakings that would allow the cancellation of the underwriting agreement or the irrevocable undertakings.

134. The issuer should not include the proceeds of an offer when calculating its working capital if it is necessary to make any significant assumptions concerning whether the offering will be underwritten or whether any irrevocable undertakings will be withdrawn. Furthermore, if an issuer includes any of the proceeds of an offering in the calculation of its working capital, it should be clear in the disclosure provided in accordance with Item 5.1.4 of Annex 11 to the Commission Delegated Regulation that the offer will not continue if it is no longer underwritten or the irrevocable undertakings are withdrawn.

135. As mentioned above, investors should also not be confronted by any uncertainty in relation to the quality of the underwriting and any irrevocable undertakings. Such uncertainty also includes any credit risk in relation to any party underwriting the offering or providing irrevocable undertakings. In order to limit such uncertainty, the issuer

should assess the credit risk associated with the parties underwriting the offering or providing irrevocable undertakings. If the outcome of this assessment is that there is a material risk that one or more of the parties underwriting the offering or providing irrevocable undertakings will not be able to meet its obligations, the issuer should not include the proceeds of the offering in the calculation of its working capital.

136. Only offerings that are underwritten on a firm commitment basis and irrevocable undertakings should be included in the calculation of an issuer's working capital. This ensures that there is certainty about the proceeds of an offering. For the avoidance of doubt, an intention or agreement to subscribe to an offering of securities is not a firm commitment or an irrevocable undertaking.

137. In order to take the proceeds of an offering into account in the calculation of an issuer's working capital, the issuer should know the minimum amount of proceeds of the offering that will be underwritten or placed via irrevocable undertakings. The proceeds of the offering should not be included in the calculation of the issuer's working capital if the issuer cannot calculate the net proceeds of the offer (for example under the circumstances that there is no minimum price or the underwriting agreement does not guarantee a minimum amount of proceeds).

Rules for calculation of present requirements

Article 12 (Annex 11, Item 3.1.1; Annex 15, Item 6.1.1), Article 14 (Annex 13, Item 1.1), Article 28a(1) (Annex 30, Item 13.1) and Article 34 (Annex 34, Item 14.1) of the Commission Delegated Regulation.

138. **Guideline [30]: For the purpose of the working capital statement and in line with the duration of the validity of the prospectus established in Article 12 of the Prospectus Regulation, the issuer should count in its working capital all amounts which are reasonably expected to be received or fall due to be paid for a minimum of the next 12 months from the date of approval of the prospectus when calculating its present requirements. If it has made a firm commitment to acquire another entity within the 12 months following the date of approval of the prospectus, it should include the impact of the acquisition when calculating its present requirements.**

139. When calculating its present requirements, the issuer should take into account the actions foreseen in its strategy (For example, the issuer's strategy foresees expenditures relating to research and development or equipment).

140. Where the issuer is aware of working capital difficulties that may arise more than 12 months after the date of approval of the prospectus, the persons responsible for the prospectus should consider including supplementary disclosure in the prospectus.

Preparation on a consolidated basis

Article 12 (Annex 11, Item 3.1.1; Annex 15, Item 6.1.1), Article 14 (Annex 13, Item 1.1), Article 28a(1) (Annex 30, Item 13.1) and Article 28b(1) (Annex 34, Item 14.1) of the Commission Delegated Regulation, read in light of the principle of including consolidated information in the prospectus in Article 2 (Annex 1, Item 6.1.6), Article 7a (Annex 7, Item 5.1.5), Article 28b(1) (Annex 34, Item 8.2.3) and Article 28d (Annex 35, Item 8.2.3) of the Commission Delegated Regulation.

141. **Guideline [31]: In line with the requirement to include consolidated financial statements in the prospectus where such statements are prepared, when an issuer prepares its working capital statement, it should determine the working capital and the present requirements on a consolidated basis.**

142. For an issuer which is the parent company of a group, the investor is in substance investing in the business of the whole group and this is the basis on which information in the prospectus is presented. As such, financial information in the prospectus is presented on a consolidated basis, and this principle should also apply to the working capital statement. When determining its working capital and present requirements, the issuer should consider, among other things, the nature of group arrangements and any restrictions on the transfer of funds between subsidiaries (for example, where overseas subsidiaries are involved).

Credit institutions

Article 12 (Annex 11, Item 3.1.1; Annex 15, Item 6.1.1), Article 14 (Annex 13, Item 1.1), Article 28a(1) (Annex 30, Item 13.1) and Article 28b(1) (Annex 34, Item 14.1) of the Commission Delegated Regulation.

143. **Guideline [32]: When determining its working capital, an issuer which is a credit institution[31] should take its liquidity metrics and relevant applicable prudential requirements as the starting point. The issuer should take into account all available information which may have a material impact on its liquidity risk and its projected capital adequacy ratios.**

[31] As defined in Article 2(g) of the Prospectus Regulation.

144. Issuers which are credit institutions should provide a working capital statement in line with the general rules set out in Guidelines [25]-[31] when issuing equity securities. However, this statement should be drawn up on a basis that reflects the specificities of their business model by relying on the relevant applicable prudential requirements, except where relying on such requirements would render the working capital statement misleading. EU credit institutions should use the applicable ratios required by EU legislation[32] to calculate liquidity. In particular, these institutions should consider the use of the Liquidity Coverage Ratio and Net Stable Funding to calculate liquidity. The same applies to third country credit institutions which calculate those ratios. Third country credit institutions which do not calculate those ratios should instead use ratios consistent with the applicable legal framework within their jurisdictions to calculate liquidity.

145. Additionally, EU credit institutions should consider their projected capital adequacy ratios. In particular, these institutions should consider their projected ratios at the CET 1 and TCR levels and projected leverage ratios under a base case and reasonable worst-case scenario. The same applies to third country credit institutions which calculate those ratios. Third country credit institutions which do not calculate those ratios should instead use ratios consistent with the applicable legal framework within their jurisdictions.

146. When taking its metrics as the starting point for determining its working capital, the issuer should make use of the most recently calculated ratio(s). Where a ratio is calculated several months before the date of approval of the prospectus, the issuer should take into account all events since the date of calculation, which could have affected its liquidity and it regulatory capital requirements.

147. The requirement to use applicable prudential ratios for preparing the working capital statement does not in and of itself mean that credit institutions are required to disclose these ratios in the prospectus.

[32] Regulation (EU) No 575/2013; Commission Delegated Regulation (EU) 2015/61; Commission Implementing Regulation (EU) No 680/2014.

Insurance and reinsurance undertakings

Article 12 (Annex 11, Item 3.1.1; Annex 15, Item 6.1.1), Article 14 (Annex 13, Item 1.1), Article 28a(1) (Annex 30, Item 13.1) and Article 28b(1) (Annex 34, Item 14.1) of the Commission Delegated Regulation.

148. **Guideline [33]: When determining its working capital, an issuer which is an insurance or reinsurance undertaking[33] should take the liquidity metrics which were agreed with the supervisory authority and regulatory capital requirements as the starting point.**

149. Issuers which are insurance or reinsurance undertakings should provide a working capital statement in line with the general rules set out in Guidelines [25]-[31] when issuing equity securities. However, this statement should be drawn up on a basis that reflects the specificities of their business model by relying on the relevant applicable prudential requirements, except where relying on such requirements would render the working capital statement misleading. EU insurance or reinsurance undertakings should use the metrics which they have adopted and submitted to the supervisory authority for monitoring their liquidity risk pursuant to the Solvency II regime,[34] including Minimum Capital Requirement, as well as its capital adequacy ratios. Third country insurance and reinsurance undertakings should use metrics consistent with the applicable legal framework on prudential supervision within their jurisdictions.

150. The issuer should make use of the most recently calculated metrics when determining its working capital. Where a metric is calculated several months before the date of approval of the prospectus, the issuer should take into account all events since the date of calculation, which could have affected its liquidity risk and regulatory capital requirements.

151. The requirement to use applicable prudential metrics for preparing the working capital statement does not in and of itself mean that insurance and reinsurance undertakings are required to disclose these metrics in the prospectus.

5.8 Remuneration

Types of remuneration

Article 2 (Annex 1, Item 5.2), Article 24 (Annex 15; Item 9.2). Please also note that when applying Annex 2 (Universal Registration Document) or Annex 5 (Depository

[33] As defined in Article 13(1) and (4) of the Solvency II Directive.
[34] Solvency II Directive; Commission Delegated Regulation (EU) 2015/35 and related implementing measures.

Receipts) of the Commission Delegated Regulation, Article 2 (Annex 1, Item 5.2) is also relevant.

152. **Guideline [34]: The persons responsible for the prospectus should disclose in the prospectus whether the issuer paid any remuneration pursuant to a bonus or profit-sharing plan, via share-based payments or any other benefit in kind.**

153. Where remuneration has been provided pursuant to a bonus or profit-sharing plan, the persons responsible for the prospectus should provide a description of the plan and the basis upon which any persons participated in the plan. For the purpose of this Guideline a plan includes any type of arrangement for remuneration, even if the terms of the plan are not contained in a formal document.

154. Where remuneration has been provided using share-based payments (e.g. stock options, phantom shares, share warrants, share appreciation rights) the persons responsible for the prospectus should provide details concerning:

(i) the total amount of securities covered;

(ii) the exercise price;

(iii) the consideration for which the share-based payments were or will be created (if any);

(iv) the period during which they can be exercised; and

(v) the date on which they expire.

155. If any other benefits in kind were granted, such as medical healthcare or transportation, the persons responsible for the prospectus should provide details in this regard. In the case of non-cash benefits, the total estimated value should be mentioned.

156. Where available, the persons responsible for the prospectus may include or cross-refer to the remuneration report, as required by the Shareholder Rights Directive, in the prospectus.

5.9 Related party transactions

Issuers not applying IAS 24

Article 2 (Annex 1, Item 7.4.1); Article 24 (Annex 15, Item 11.4), of the Commission Delegated Regulation.

157. **Guideline [35]: A related party transaction has the same meaning as in IAS 24. If an issuer does not apply IAS 24, it should consult IAS 24 to understand the meaning of a related party transaction.**

158. For issuers who use an equivalent third country accounting framework to IAS / IFRS,[35] if their accounting framework provides details on related party transactions, they should consult the definition of related party transactions therein. The use of this equivalent accounting standard to IAS 24 should be sufficient.

159. Where relevant, an issuer should state if it has followed the approval process for related party transactions and should provide disclosure as per Article 9(c) of the Shareholder Rights Directive.

5.10 Acquisition rights and undertakings to increase capital

Acquisition rights and undertakings to increase capital

Article 2 (Annex 1, Item 7.5.6; Annex 15, Item 11.5.6) of the Commission Delegated Regulation.

160. **Guideline [36]: If there is either authorised but unissued capital or an undertaking to increase the capital of the issuer, the persons responsible for the prospectus should provide the following information in the prospectus:**

   (i) the amount of all outstanding securities giving access to share capital and the amount of the authorised capital / capital increase and, where appropriate, the duration of the authorisation;

   (ii) the categories of persons having preferential subscription rights for the additional portions of capital; and

   (iii) the terms, arrangements and procedures for the share issue corresponding to those portions.

[35] Where equivalence has been granted in accordance with the Commission Decision 2008/961/EC and any amendments thereto.

161. The following are examples of where there could be authorised but unissued capital or an undertaking to increase the capital: warrants, convertible bonds or other outstanding equity-linked securities, or subscription rights granted.

5.11 Options agreements

Compiling information on options agreements

Article 2 (Annex 1, Item 7.5.7; Annex 15 Item 11.5.7) of the Commission Delegated Regulation.

162. **Guideline [37]: Where any entity of the issuer's group has capital which is under option, or which is agreed conditionally or unconditionally to be put under option, the persons responsible for the prospectus should include the following information:**

(i) title and amount of the securities covered by the options;

(ii) the exercise price;

(iii) the consideration for which the options were / will be created;

(iv) the period during which the options can be exercised and the expiry date; and

(v) the potential dilution connected to the exercise of the options, unless the effect is immaterial.[36]

163. Where options have been granted, or have been agreed to be granted, to all the holders of shares or non-equity securities or of any class thereof, or to employees under an employee share scheme, the persons responsible for the prospectus may:

i. disclose that fact in the prospectus without giving the names of the persons to whom the options relate; and

ii. provide a range of exercise prices, exercise periods and expiry dates.

[36] Materiality in this context should be assessed by reference to Article 6 of the Prospectus Regulation. Furthermore, persons responsible for the prospectus should consider reporting standards such as IAS 33 (or similar requirements in the applicable accounting framework) as an aid when complying with this guideline.

5.12 Description of the rights attaching to the issuer's shares

Rights attached to the issuer's shares

Article 2 (Annex 1, Item 7.5..2a; Annex 15, Item 11.5.2a) of the Commission Delegated Regulation.

164.**Guideline [38]: The persons responsible for the prospectus should, where relevant, provide a description of at least the following:**

(i) dividend rights, including the time limit after which dividend entitlement lapses and an indication of the party in whose favour this entitlement operates;

(ii) voting rights;

(iii) rights to a share in the issuer's profit;

(iv) rights to a share in any surplus in the event of liquidation;

(v) redemption provisions;

(vi) reserves or sinking fund provisions;

(vii) liability to further capital calls by the issuer; and

(viii) any provisions discriminating against, or favouring, existing or prospective holders of such securities, as a result of the shareholder owning a substantial number of shares.

5.13 Statements by experts

Material interest

Article 2 (Annex 1, Item 2.3(d); Annex 15, item 3.3(d), Article 7a (Annex 7, Item 2.3(d), Article 10 (Annex 9, Item 1.3(d), Article 11 (Annex 10, Item 1.3(d), Article 12 (Annex 11, Item 2.3(d), Article 15a (Annex 14, Item 2.3(d); Annex 16, Item 3.3(d), Article 28a (Annex 30, Item 4.1.2(d), Article 28c (Annex 33, Item 6.1), Article 28b (Annex 34, Item 4.1.2(d), Article 28c (Annex 31, Item 4.1.2(d) and Article 28d (Annex 35, Item 4.1.2(d) of the Commission Delegated Regulation.

165.**Guideline [39]: Where a statement or report is included in the registration document or securities note and is attributed to an expert, the persons**

responsible for the prospectus should determine whether that expert has a material interest in the issuer by considering the following factors:

(i) ownership of securities;

(ii) former employment or compensation;

(iii) membership; and

(iv) connections to financial intermediaries involved in the offering or listing of the securities.

If one or more of these criteria are fulfilled, the persons responsible for the prospectus should consider if this will result in a material interest taking into account the type of securities being offered.

The persons responsible for the prospectus should clarify in the prospectus that, to the best of their knowledge, these criteria (or, if any, other relevant criteria) have been taken into account in order to fully describe the material interest of the expert, if any.

166. <u>Ownership of securities</u>: This should relate to securities issued by the issuer, or by any company belonging to the same group, or options to acquire or subscribe for securities of the issuer.

167. <u>Former employment or compensation</u>: This should relate to any previous employment with the issuer or any form of compensation previously received from the issuer.

168. <u>Membership</u>: This should relate to any past or current membership in any of the issuer's bodies.

169. <u>Connections to financial intermediaries involved in the offering or listing of the securities</u>: This should relate to connections with any financial intermediaries involved in the offering or listing of the securities of the issuer.

170. An 'expert' may be a natural or legal person.

5.14 Interest of natural and legal persons involved in the issue / offer

Interests

Article 12 (Annex 11, Item 2.6; Annex 15, Item 3.6), Article 14 (Annex 13,Item 5.2), Article 15a (Annex 14, Item 2.6.1; Annex 16, Item 3.6.1), Article 28a (Annex 30, Item 14.1), Article 28b (Annex 34, Item 15.1), Article 28c (Annex 30, Item 10.1) and Article 28d (Annex 35, Item 12.1)of the Commission Delegated Regulation.

171.**Guideline [40]: For the disclosure of interests in the prospectus, the persons responsible for the prospectus should consider the parties involved in the issue or offer and the nature of their interests, and in particular any conflicts of interests.**

172.For example, when including disclosure on interests, the persons responsible for the prospectus should consider parties such as advisors, financial intermediaries and experts (even if no statement produced by an expert(s) is included in the prospectus).

173.When considering the nature of the interests, the persons responsible for the prospectus should consider whether the parties involved in the issue or offer hold equity securities of the issuer, or equity securities of any subsidiaries of the issuer, or have a direct or indirect economic interest that depends on the success of the issue, or have any understanding or arrangement with major shareholders of the issuer.

5.15 Collective investment undertakings

Investment strategy

Article 5 (Annex 4, Item 1.1 (a) of the Commission Delegated Regulation.

174.**Guideline [41]: Where the persons responsible for the prospectus include a description of the investment strategy in the prospectus, they should provide information on the methodology to be employed in pursuing that strategy and indicate whether the investment manager intends to apply an active or a passive strategy.**

175.The information should specify, for example, whether the investment strategy will be focusing on growth opportunities or whether the intention is to target mature companies paying out regular dividends.

Description of the assets

Article 5 (Annex 4, Item 1.1(c)) of the Commission Delegated Regulation.

176. **Guideline [42]: When the persons responsible for the prospectus include a description of the types of assets in which the collective investment undertaking may invest, they should provide at least the following information regarding the investment portfolio:**

   (i) geographical areas of investment;

   (ii) industry sectors;

   (iii) market capitalisation;

   (iv) credit ratings / investment grades; and

   (v) whether the assets are admitted to trading on a regulated market.

Securities financing transactions (SFTs)

Article 5 (Annex 4, Item 2.8) of the Commission Delegated Regulation.

177. **Guideline [43]: When a collective investment undertaking uses SFTs and total return swaps, other than for the purposes of efficient portfolio management, the persons responsible for the prospectus should provide the following information in the prospectus:**

   (i) general description;

   (ii) the criteria used to select counterparties;

   (iii) acceptable collateral;

   (iv) risks; and

   (v) custody and safe keeping.

178. The above information items are aligned with information requirements in the Annex (Section B) to the SFT Regulation. Accordingly, the terms ‘securities financing transactions’ and ‘total return swap’ should be understood to have the meanings set out in Articles 3(11) and 3(18) of that Regulation.

179. General description: This should provide a general description of the SFTs and total return swaps, including the rationale for their use. For each type of SFT and total return swap, this information should cover:

(i) the types of assets that can be subject to them; and

(ii) the maximum proportion of assets under management that can be subject to them, and the expected proportion of assets under management that will be subject to each of them.

180. Criteria used to select counterparties: This should include information on the criteria applied by the issuer to select counterparties, including legal status, country of origin and minimum credit rating.

181. Acceptable collateral: This information should cover asset types, issuer, maturity, liquidity as well as the collateral diversification and correlation policies.

182. Risks: This should comprise of a description of the risks linked to SFTs and total return swaps as well as risks linked to collateral management and, where applicable, arising from its reuse. The disclosure may relate to operational, liquidity, counterparty, custody and / or legal risks.

183. Custody and safe keeping: This should include a specification of how assets subject to SFTs and total return swaps and collateral received are safe-kept (e.g. with a fund custodian).

Broadly based index

Article 5 (Annex 4, Item 2.10) of the Commission Delegated Regulation.

184. **Guideline [44]: The persons responsible for the prospectus should consider a broadly based and recognised published index as one which possesses the following characteristics:**

(i) adequately diversified and representative of the market it refers to;

(ii) calculated with sufficient frequency to ensure appropriate and timely pricing and information on the constituents of the index;

(iii) published widely to ensure its dissemination to the relevant user / investor base; and

(iv) **compiled and calculated by a party independent of the collective investment undertaking and available for purposes other than the calculation of the return of the collective investment undertaking.**

Fees

Article 5 (Annex 4, Item 3.2) of the Commission Delegated Regulation.

185. **Guideline [45]: When referring to fees, in addition to fees paid to service providers the persons responsible for the prospectus should consider the following non- exhaustive items:**

(i) **subscription fees;**

(ii) **redemption fees;**

(iii) **distribution fees;**

(iv) **placement fees;**

(v) **variable management fees;**

(vi) **fees associated with changes in the composition of the portfolio:**

1. **transaction fees;**
2. **brokerage service fees;**
3. **advertising fees; and**
4. **compliance and reporting fees.**

186. Subscription fees and redemption fees: These items relate to both fees that are guaranteed by the collective investments undertaking or negotiable.

187. Variable management fees: These items could for example relate to performance fees.

188. Fees associated with changes in the composition of the portfolio: These are fees which may seem immaterial individually but can be material when grouped together.

Regulatory status of the investment manager

Article 5 (Annex 4, Item 4.1) of the Commission Delegated Regulation.

189. **Guideline [46]: When providing a description of the investment manager's regulatory status, the persons responsible for the prospectus should provide the name of the regulatory authority by which the investment manager is regulated or, if the investment manager is not regulated, a negative statement.**

190. The reference to the regulatory authority should not create the impression that the investment is in any way endorsed, approved or guaranteed by such authority.

Experience of the investment manager

Article 5 (Annex 4, Item 4.1) of the Commission Delegated Regulation.

191. **Guideline [47]: When providing a description of the investment manager's experience, the persons responsible for the prospectus should provide the following information in the prospectus:**

(i) an indication of the number of funds (including sub-funds) which the investment manager is managing under delegation;

(ii) the relevance of the investment manager's experience to the investment objective of the collective investment undertaking; and

(iii) if material to investors' assessment of the investment manager, the experience of the specific personnel who will be involved in the investment management of the collective investment undertaking.

Description of the entity responsible for advice

Article 5 (Annex 4, Item 4.2) of the Commission Delegated Regulation.

192. **Guideline [48]: When providing a brief description of the entity providing investment advice, the persons responsible for the prospectus should include the following information in the prospectus:**

(i) address;

(ii) country of incorporation;

(iii) legal form;

(iv) **regulatory status;**

(v) **the nature of the entity's business; and**

(vi) **information on the entity's experience.**

193. Information on the entity's experience: In relation to this item, the persons responsible for the prospectus should provide information on the number of funds in relation to which advice is currently being, or has previously been, given. They should also explain the relevance of the experience to the investment objective of the collective investment undertaking.

Portfolio analysis

Article 5 (Annex 4, Item 8.2) of the Commission Delegated Regulation.

194. **Guideline [49]: When providing a comprehensive and meaningful analysis, in line with Item 8.2 of the Commission Delegated Regulation, the persons responsible for the prospectus should include the following information in the prospectus where material to the assessment of the investment portfolio:**

(i) **details of the main instruments in which the collective investment undertaking is trading, including a breakdown of financial instruments, and its geographical and sectoral focus;**

(ii) **an analysis between equity shares, convertible securities, fixed income securities, types or categories of derivative products, currencies and other investments, distinguishing between securities which are listed and unlisted and traded on or off a regulated market in the case of derivatives; and**

(iii) **an analysis by currency type stating the market value of each section of the portfolio.**