



THE COMMITTEE OF EUROPEAN SECURITIES
REGULATORS

Annex A

**CESR Proposals for the Core Equity
Registration [document](#)¹ Building Block**
based on
IOSCO international disclosure standards and
European directive 2001/34/EC

¹ [Like in Annex I.](#)

CESR Proposal		IOSCO IDS Reference	
I.A	<u>Responsibility for the prospectus or certain parts of them</u>	I.A.	
I.A.1	Provide the name and function of natural persons and/or name and registered office of legal persons responsible for the registration document or, as the case may be, for certain parts of them, with, in the latter case, an indication of those parts.		
I.A.2	Provide a declaration by those persons that, having taken all reasonable care to ensure that such is the case, to the best of their knowledge, the information given in that part of the registration document for which they are responsible is in accordance with the facts and does not omit anything likely to affect the import of the registration document.		
I.B	<u>Advisors.</u> Provide the names and addresses of the company's principal bankers and legal advisers to the extent the company has a continuing relationship with such entities.²	I.B.	
I. <u>BC</u>	<u>Auditors.</u>	I.C.	
I. <u>BC</u> .1	Provide the names and addresses of the company's auditors for the preceding three years (together with their membership in a professional body).		
I. <u>BC</u> .2	If auditors have resigned, been removed or not been re-appointed during the last three financial years, details must be disclosed if material.		
II.A	<u>Selected Financial Data.</u>	III.A.1. III.A.2.	
II.A.1	The company shall provide selected historical financial data regarding the company, which shall be presented for the three most recent financial years (or such shorter period that the company has been in operation), in the same currency as the financial statements.		
II.A.2	If interim period financial statements are included, the selected financial data should be updated for that interim period, which may		

² [The mentioning of the legal advisers does not have an added value. On the contrary it may even be misleading, e.g. if the advisers did not carry out a complete due diligence \(often no complete due diligence is carried out!\) and if they did not have to take care of all legal issues \(what also happens frequently\) or if they were not involved with respect to the issue of the securities described in the prospectus at all. Even if the legal advisers carried out a complete due diligence and were involved with all legal issues, the mentioning of the legal advisers is not to be recommended since the mentioning of their names could be interpreted by courts as the assumption of a liability by the lawyers for the prospectus. If this were the case, the legal advisers would have to increase their fees substantially to cover an additional insurance coverage. The increase of the lawyers' fees could be really substantial per transaction which can neither be in the interest of the issuer nor in the interest of the investor.](#)

CESR Proposal		IOSCO IDS Reference
	be unaudited, provided that fact is stated. If selected financial data for interim periods is provided, comparative data from the same period in the prior financial year shall also be provided, except that the requirement for comparative balance sheet data is satisfied by presenting the year end balance sheet information).	
II.A.3	The selected financial data presented shall include items generally corresponding to the following, except that the specific line items presented should be expressed in the same manner as the corresponding line items in the company's financial statements. Such data shall include, at a minimum, net sales or operating revenues; income (loss) from operations; income (loss) from continuing operations; net income (loss); net income (loss) from operations per share; income (loss) from continuing operations per share; total assets; net assets; capital stock (excluding long term debt and redeemable preferred stock); number of shares as adjusted to reflect changes in capital; dividends declared per share, including the formula used for any adjustments to dividends declared; and diluted net income per share. Per share amounts must be determined in accordance with the body of accounting principles used in preparing the financial statements.	
II.B	<u>Risk Factors.</u> The document shall prominently disclose risk factors that are specific to the company or its industry and make an offering speculative or one of high risk, in a section headed "Risk Factors".	III.D.
III	<u>Information about the issuer</u>	
III.A	<u>History and Development of the Company.</u> The following information shall be provided:	IV.A.
III.A.1	The legal and commercial name of the company.	IV.A.1.
III.A.2	The place of registration of the issuer and its registration number.	
III.A.3	The date of incorporation and the length of life of the company, except where indefinite.	IV.A.2.
III.A.4	The domicile and legal form of the company, the legislation under which the company operates, its country of incorporation, web-site address, and the address and telephone number of its registered office (or principal place of business if different from its registered office).	IV.A.3.
III.A.5	The important events in the development of the company's business, e.g. information concerning the nature and results of any material reclassification, merger or consolidation of the	IV.A.4.

CESR Proposal		IOSCO IDS Reference
	company or any of its significant subsidiaries; acquisitions or dispositions of material assets other than in the ordinary course of business; any material changes in the mode of conducting the business; material changes in the types of products produced or services rendered; name changes; or the nature and results of any bankruptcy, receivership or similar proceedings with respect to the company or significant subsidiaries <u><since when?></u> .	
III.B	Investments	
III.B.1	A description, including the amount invested, of the company's principal capital expenditures and divestitures (including interests in other companies), since the beginning of the company's last three financial years to the date of the registration document.	IV.A.5.
III.B.2	Information concerning the principal capital expenditures and divestitures currently in progress, including the distribution of these investments geographically (home and abroad) and the method of financing (internal or external).	IV.A.6.
III.B.3	Information concerning the company's principal future investments, with the exception of interests to be acquired in other undertakings on which its management bodies have already made firm commitments .	
III.B.4	An indication of any public take-over offers by third parties in respect of the company's shares or by the company in respect of other companies' shares which have occurred during the last and current financial year. The price or exchange terms attaching to such offers and the outcome thereof are to be stated.	IV.A.7.
III.C	<u>Business Overview</u>	
III.C.1	<u>Principal Activities:</u> The following information shall be provided:	IV.B.
III.C.1.a	A description of the nature of the company's operations and its principal activities, stating the main categories of products sold and/or services performed for each of the last three financial years.	IV.B.1.
III.C.1.b	Indicate any significant new products and/or services that have been introduced and, to the extent the development of new products or services has been publicly disclosed, give the status of development.	IV.B.1.

III.C.2	Principal Markets A description of the principal markets in which the company competes, including a breakdown of total revenues by category of activity and geographic market for each of the last three financial years.	IV.B.2.
III.C.3	Where the information given pursuant to III.B.1 and III.B.2 above has been influenced by exceptional factors, that fact should be mentioned.	
III.C.4	If material to the company's business, a description of the seasonality of the company's main business.	IV.B.3.
III.C.5	If material to the company's business, a description of the sources and availability of raw materials, including a description of whether prices of principal raw materials are volatile.	IV.B.4.
III.C.6	If material, a description of the marketing channels used by the company, including an explanation of any special sales methods, such as instalment sales.	IV.B.5.
III.C.7	Summary information regarding the extent to which the company is dependent, if at all, on patents or licenses, industrial, commercial or financial contracts (including contracts with customers or suppliers) or new manufacturing processes, where such factors are material to the company's business or profitability.	IV.B.6.
III.C.8	The basis for any statements made by the company regarding its competitive position shall be disclosed.	IV.B.7.
III.D	<u>Organizational Structure.</u>	IV.C.
III.D.1	If the company is part of a group, include a brief description of the group and the company's position within the group.	
III.D.2	Provide a listing of the company's significant subsidiaries, including name, country of incorporation or residence, proportion of ownership interest and, if different, proportion of voting power held.	
III.E	<u>Property, Plants and Equipment.</u> The company shall provide information regarding any material tangible fixed assets, including leased properties, and any major encumbrances thereon, including a description of the size and uses of the property; productive capacity and extent of utilization of the company's facilities; how the assets are held; the products produced; and the location. Also describe any environmental issues that may	IV.D.

	affect the company's utilization of the assets. With regard to any material plans to construct, expand or improve facilities, describe the nature of and reason for the plan, an estimate of the amount of expenditures including the amount of expenditures already paid, a description of the method of financing the activity, the estimated dates of start and completion of the activity, and the increase of production capacity anticipated after completion.	
IV.A	<u>Operating Results.</u>	V.A.
IV.A.1	Provide information regarding significant factors, including unusual or infrequent events or new developments, materially affecting the company's income from operations, indicating the extent to which income was so affected. Describe any other significant component of revenue or expenses necessary to understand the company's results of operations.	
IV.A.2	To the extent that the financial statements disclose material changes in net sales or revenues, provide a narrative discussion of the extent to which such changes are attributable to changes in prices or to changes in the volume or amount of products or services being sold or to the introduction of new products or services.	V.A.1.
IV.A.3	Describe the impact of inflation, if material. If the currency in which financial statements are presented is of a country that has experienced hyperinflation, the existence of such inflation, a five year history of the annual rate of inflation and a discussion of the impact of hyperinflation on the company's business shall be disclosed.	V.A.2.
IV.A.4	Provide information regarding the impact of foreign currency fluctuations on the company, if material, and the extent to which foreign currency net investments are hedged by currency borrowings and other hedging instruments.	V.A.3.
IV.A.5	Provide information regarding any governmental economic, fiscal, monetary or political policies or factors that have materially affected, or could materially affect, directly or indirectly, the company's operations.	V.A.4.
IV.B	<u>Liquidity and Capital Resources.</u> The following information shall be provided:	V.B.
IV.B.1	Information regarding the company's liquidity (both short and long term), including:	V.B.1.
IV.B.1.a	a description of the internal and external sources of liquidity and a brief discussion of any material unused sources of liquidity.	V.B.1.a.

IV.B.1.b	an evaluation of the sources and amounts of the company's cash flows, including the nature and extent of any legal or economic restrictions on the ability of subsidiaries to transfer funds to the company in the form of cash dividends, loans or advances and the impact such restrictions have had or are expected to have on the ability of the company to meet its cash obligations.	V.B.1.b.	
IV.B.1.c	information on the borrowing requirements and funding structure of the company, including: seasonality of borrowing requirements; details of the level of borrowings at the end of the period under review; details of the main loan agreements including interest rate, interest rate-adjustment clauses, maturity, instalments payable over the next five years and special loan terms which substantially restrict the company's freedom of action or restrict the transferability of shares.	V.B.1.c.	
IV.B.2	If material to an assessment of the company's liquidity, information regarding the type of financial instruments used, the maturity profile of debt, currency and interest rate structure. The discussion also should include funding and treasury policies and objectives in terms of the manner in which treasury activities are controlled, the currencies in which cash and cash equivalents are held, the extent to which borrowings are at fixed rates, and the use of financial instruments for hedging purposes.	V.B.2.	
IV.B.3	Information regarding the company's material commitments for capital expenditures as of the end of the latest financial year and any subsequent interim period and an indication of the general purpose of such commitments and the anticipated sources of funds needed to fulfil such commitments.	V.B.3.	
IV.C	<u>Research and Development, Patents and Licenses, etc.</u> Where material, provide a description of the company's research and development policies for the last three years, including the amount spent during each of the last three financial years on company-sponsored research and development activities.	V.C.	
IV.D	Trend Information.	V.D.	
IV.D.1	The A producing company ³ should identify the most significant recent trends in production, sales and inventory, the state of the order book and costs and selling prices since the latest financial year. The company also should discuss, for at least the current financial year, any known trends, uncertainties, demands, commitments or events that are reasonably likely to have a material effect on the company's net sales or revenues, income from continuing operations, profitability, liquidity or capital resources, or that would cause reported financial information not necessarily to		

³ [Sentence would not apply to credit institutions or other non-producing companies.](#)

	be indicative of future operating results or financial condition.	
IV.D.2	Information on the issuer's prospects for at least the current financial year must be included. <u>There is no obligation to produce a profit forecast or estimate.</u> Where a profit forecast, profit estimate or any other kind of issuer's prospect appears, the principal assumptions upon which the issuer has based its forecast, estimate or prospect should be stated; the forecast or estimate should be examined and reported on by the reporting accountants or auditors and their report should be set out; the report should include confirmation from the auditors that the forecast has been made after due and careful enquiry by the directors. ⁴	
IV.D.3.a	The profit forecast, <u>if any</u> , or prospects should include a statement of the principal assumptions for each factor which could have a material effect on the achievement of the forecast. The assumptions should be clearly segregated between assumptions about factors which the directors can influence and assumptions about factors which are exclusively outside the influence of the directors; be readily understandable by investors; be specific and precise; and not relate to the general accuracy of the estimates underlying the forecast ⁵ . -A profit estimate may be subject to assumptions only in exceptional circumstances.	
IV.D.3.b	Any profit forecast shall be accompanied by a statement ensuring that said forecast has been properly prepared on the basis stated and that the basis of accounting is consistent with the accounting policies of the company.	
V.A	Directors and Senior ⁶ Management. The following information shall be disclosed:	
V.A.1	The names, business addresses and functions of the company's directors and senior management. ⁷ Names, addresses and functions in the issuing company of the following persons and an indication of the principal activities performed by them outside that company where these are significant with respect to that company: (a) members of the administrative , management or and supervisory bodies, <u>if any</u> ; (b) partners with unlimited liability, in the case of a limited partnership with a share capital;	VI.A.1-5.

⁴ An examination of the forecast / estimate currently is not required and generally not done. Auditors might be very reluctant to make such an examination if they have not audited the figures yet. This reluctance would lead to a substantial delay in the finalization of the prospectus.

⁵ meaning is unclear

⁶ The distinction between "directors" and "management" as well as "senior management" is unclear. For the protection of the investors it should be sufficient if information regarding the board of directors (*Geschäftsführung*) or in two tier companies of the board of directors (*Vorstand*) and the supervisory board (*Aufsichtsrat*) is given. In any event, this paper has to specify what is meant by the terms.

⁷ Can be deleted because all members are mentioned already in the next paragraph.

	(c) founders, if the company has been established for fewer than five years; and (d) any senior manager who is relevant to establishing that the company has the appropriate expertise and experience for the management of the company's business. The nature of any family relationship between any of the persons named above. In the case of each director of the company and person described in (a) and (d), details of that person's relevant management expertise and experience and the following information: (a) the names of all companies and partnerships of which such person has been a director or partner at any time in the previous five years, indicating whether or not the individual is still a director or partner. It is not necessary to list all the subsidiaries of a company of which the person is also a director; (b) any convictions in relation to -fraudulent offences <u>which occurred during the 5 preceding years</u>; and (c) details of convictions with respect to any bankruptcies, <u>receiverships, liquidations, or individual voluntary arrangements of such person</u>; (d) details of any receiverships, compulsory liquidations, creditors voluntary liquidations, administrations, company voluntary arrangements or any composition or arrangement with its creditors generally or any class of its creditors of any company where such person was a director with an executive function at the time of or within the 12 months preceding such events; (e) details of any compulsory liquidations, administrations or partnership voluntary arrangements of any partnerships where such person was a partner at the time of or within the 12 months preceding such events; (f) details of receiverships of any asset of such person or of a partnership of which the person was a partner at the time of or within the 12 months preceding such event; and (g) details of any public criticisms of such person by statutory or regulatory authorities (including designated professional bodies) and whether such person has ever been disqualified by a court from acting as a director of a company or from acting in the management or conduct of the affairs of any company. or, if there is no such information to be disclosed, that fact.	
V.A.2	<u>Management and directors' conflicts of interests</u> Potential conflicts of interests between any of the directors' duties to the issuing entity and their private interests and or other duties must be clearly stated. In the event that there are no such conflicts, a negative statement to that effect should be made. Any arrangement or understanding with major shareholders, customers, suppliers or others, pursuant to which any person referred to in V.A.1 was selected as a director or member of	

	senior management. ⁸		
V.B	<u>Compensation.</u> Provide the following information for the last full financial year for the company's directors and members of its administrative, supervisory or management bodies:	VI.B.	
V.B.1	The amount of compensation paid, and benefits in kind granted, to such persons by the company and its subsidiaries for services in all capacities to the company and its subsidiaries by any person. Disclosure of compensation is required on an individual basis unless individual disclosure is not required in the company's home country and is not otherwise publicly disclosed by the company. The standard also covers contingent or deferred compensation accrued for the year, even if the compensation is payable at a later date. If any portion of the compensation was paid (a) pursuant to a bonus or profit-sharing plan, provide a brief description of the plan and the basis upon which such persons participate in the plan; or (b) in the form of stock options, provide the title and amount of securities covered by the options, the exercise price, the purchase price (if any), and the expiration date of the options.	VI.B.1.	
V.B.2	The total amounts set aside or accrued by the company or its subsidiaries to provide pension, retirement or similar benefits.	VI.B.2.	
V.C	<u>Board Practices.</u> The following information for the company's last completed financial year shall be given with respect to, unless otherwise specified, the company's directors, and members of its administrative, supervisory or management bodies.	VI.C.	
V.C.1	Date of expiration of the current term of office, if applicable, and the period during which the person has served in that office.	VI.C.1.	
V.C.2	Details of directors' service contracts with the company or any of its subsidiaries providing for benefits upon termination of employment, or an appropriate negative statement.	VI.C.2.	
V.C.3	Details relating to the company's audit committee and remuneration committee, including the names of committee members and a summary of the terms of reference under which the committee operates.	VI.C.3.	
V.C.4	A statement as to whether or not the company complies with its country's of incorporation corporate governance regime should		

⁸ This section should be deleted because the issuer generally is not aware of any potential conflicts of interest since the members of its management/directors do not have to inform the issuer of any potential conflicts of interest. One should not impose obligations on the issuer which it cannot fulfill. One could, however, insert a paragraph in the risk factors stating generally that there may arise conflicts of interest which affect the price of the security. This could be a compromise.

	also be included. In the event that the company does not comply with such a regime, a statement to that effect must be included together with an explanation regarding why the company does not comply with such regime.	
V.D	<u>Employees.</u> Provide either the number of employees at the end of the period or the average for the period for each of the past three financial years (and changes in such numbers, if material) and, if possible and material, a breakdown of persons employed by main category of activity and geographic location. Also, where material, disclose any significant change in the number of employees, and information regarding the relationship between management and labour unions. If the company employs a significant number of temporary employees, include disclosure of the number of temporary employees on an average during the most recent financial year.	VI.D.
V.D.1	With respect to the persons listed in subsection V.B, above (and connected persons), provide information as to their share ownership in the company as of the most recent practicable date (including disclosure on an individual basis of the number of shares and percent of shares outstanding of that class, and whether they have different voting rights) held by the persons listed and options granted to them on the company's shares. Information regarding options shall include: the title and amount of securities called for by the options; the exercise price; the purchase price, if any; and the expiration date of the options.	VI.E.1.
V.D.2	Describe any arrangements for involving the employees in the capital of the company, including any arrangement that involves the issue or grant of options or shares or securities of the company.	VI.E.2.
VI.A	<u>Major Shareholders.</u>	VII.A.
VI.A.1.a	The name of the shareholders, provided that the issuer has been notified by the shareholders about their shareholdings in the company and is obliged to publish such notifications according to national law. In so far as is known to the company, the name of any person other than a director who, directly or indirectly, has an interest notifiable under the company's national law in the company's capital or voting rights, together with the amount of each such person's interest or, if there are no such persons, an appropriate negative statement.	VII.A.1.a.
VI.A.1.b	Disclose any significant change in the percentage ownership held by any major ⁹ shareholders during the past three years, <u>provided that the issuer has been notified of such a change and is obliged to publish such change according to national law.</u>	VII.A.1.b

⁹ Explain as of which threshold a shareholder qualifies as "major".

VI.A.1.c	Indicate whether the company's major shareholders have different voting rights, or an appropriate negative statement.	VII.A.1.c.
VI.A.2	To the extent known to the company, state whether the company is directly or indirectly owned or controlled by another corporation(s), by any government or by any other natural or legal person(s) severally or jointly, and, if so, give the name(s) of such controlling corporation(s), government or other person(s), and briefly describe the nature of such control, including the amount and proportion of capital held giving a right to vote. A description of any measures in place to ensure that: 1. all transactions and relationships between the company and such controlling corporation(s), government or other person(s) are, and will be, at arm's length and on a normal commercial basis; and 2. such controlling corporation(s), government or other person(s) will not exercise their control against the interests of the company. Where there are no such measures in place a statement to this effect must be made.	VII.A.3.
VI.A.3	Describe any arrangements, known to the company, the operation of which may at a subsequent date result in a change in control of the company.	VII.A.4.
VI.B	<u>Related Party Transactions.</u> Provide the information required below for the period since the beginning of the company's preceding three financial years up to the date of the document, with respect to transactions or loans between the company and (a) enterprises that directly or indirectly through one or more intermediaries, control or are controlled by, or are under common control with, the company; (b) associates; (c) to the extent known to the company, individuals owning, directly or indirectly, an interest in the voting power of the company that gives them significant influence over the company, and close members of any such individual's family; (d) key management personnel, that is, those persons having authority and responsibility for planning, directing and controlling the activities of the company, including directors and senior management of companies and close members of such individual's family; and (e) enterprises in which a substantial interest in the voting power is owned, directly or indirectly, by any person described in (c) or (d) or over which such a person is able to exercise significant influence. This includes enterprises owned by directors or major shareholders of the company and enterprises that have a member of key management in common with the company. Close members of an individual's family are those that may be expected to influence, or be influenced by, that person in their dealings with the company. An associate is	VII.B.

	an unconsolidated enterprise in which the company has a significant influence or which has significant influence over the company. Significant influence over an enterprise is the power to participate in the financial and operating policy decisions of the enterprise but is less than control over those policies. Shareholders beneficially owning a 10% interest in the voting power of the company are presumed to have a significant influence on the company. 1. The nature and extent of any transactions during the preceding or current financial year or presently proposed transactions which are material to the company or the related party, or any transactions that are unusual in their nature or conditions, involving goods, services, or tangible or intangible assets, to which the company or any of its parent or subsidiaries was a party. Where such transactions were concluded in the course of previous financial years and have not been definitively concluded, information on those transactions must also be given (in particular any special reports of the auditors on those transactions). 2. The amount of outstanding loans (including guarantees of any kind) made by the company or any of its parent or subsidiaries to or for the benefit of any of the persons listed above. The information given should include the largest amount outstanding during the period covered, the amount outstanding as of the latest practicable date, the nature of the loan and the transaction in which it was incurred, and the interest rate on the loan.	
VI.C	<u>Interests of Experts and Counsel.</u> If any of the named experts or counsellors was employed on a contingent basis, owns an amount of shares in the company or its subsidiaries which is material to that person, or has a material, direct or indirect economic interest in the company or that depends on the success of the offering, provide a brief description of the nature and terms of such contingency or interest.	VII.C.
VII	Financial information concerning the issuer's assets and liabilities, financial position and profits and losses	VIII
VII.A	<u>Consolidated Statements and Other Financial Information</u> The document must contain consolidated financial statements (where consolidated statements are prepared). Any financial statements contained in the registration document (whether consolidated or own accounts) must be audited by an independent auditor and accompanied by an audit report, comprised of: (a) balance sheet; (b) profit and loss account; (c) profit or loss per share (d) statement showing either (i) changes in equity other than	VIII.A.1.

	those arising from capital transactions with owners and distributions to owners; or (ii) all changes in equity (including a subtotal of all non-owner items recognized directly in equity); (e) cash flow statement; (f) accounting policies; (g) related notes and schedules required by the comprehensive body of accounting standards pursuant to which the financial statements are prepared; and (h) if not included in the primary financial statements, a note analysing the changes in each caption of shareholders' equity presented in the balance sheet.	
VII.B	<u>Notes to the accounts</u> The notes to the accountant's report and comparative table must, as a minimum cover: a) the last balance sheet; and b) the profit and loss accounts and cash flow statements (or source and application of funds statements) for all periods included in the accountants report or comparative table.	
VII.C	<u>Standard of account preparation</u> The document should include comparative financial statements that cover the latest three financial years, audited in accordance with a comprehensive body of auditing standards.	VIII.A.2.
VII.D	<u>Own versus consolidated accounts</u> If the company prepares consolidated annual accounts only, it shall include those accounts in the registration document. If the company prepares both own and consolidated annual accounts, it shall include both sets of accounts in the registration document. However, the company may include either the own or the consolidated annual accounts, on condition that the accounts which are not included do not provide any significant additional information.	
VII.E	<u>True and fair view</u> If the own or consolidated annual accounts do not comply with the Council Directives on undertakings' annual accounts and do not give a true and fair view of the issuer's assets and liabilities, financial position and profits and losses, more detailed and/or additional information must be given. In the case of issuers incorporated in a non-member state which are not obliged to draw up their accounts so as to give a true and fair view, but are required to draw them up to an equivalent standard, the latter may be sufficient.	

VII.F	<u>Auditing of accounts</u>	
VII.F.1	Statement that the annual accounts have been audited. If audit reports on the annual accounts have been refused by the official auditors or if they contain qualifications or disclaimers, such refusal or such qualifications or disclaimers shall be reproduced in full and the reasons given.	VIII.A.3.
VII.F.2	Indication of other information in the registration document which has been audited by the auditors.	
VII.F.3	Where financial data in the registration document is not extracted without material adjustment from the company's audited accounts the company must state the source of the data and state that the data is unaudited.	
VII.G	<u>Age of latest annual accounts</u>	
VII.G.1	The last year of audited financial statements may not be older than 18 ¹⁰ months from the date of the registration document; provided, however, that in the case of the company's first ^{initial} public offering or admission to trading on a regulated market the audited financial statements also shall be as of a date not older than 12 months from the date of the registration document. In such cases, the audited financial statements may cover a period of less than a full year. <u>In exceptional cases this period of time may be prolonged by the competent authority. In the event of a prolongment a statement for the reason of the prolongment has to be included in the prospectus.</u>	VIII.A.4.
VII.H	<u>Interim financial statements</u>	
VII.H.1	If the document is dated more than nine months after the end of the last audited financial year, it should contain own or consolidated interim financial statements, which may be unaudited (in which case that fact should be stated), covering at least the first six months of the financial year.	VIII.A.5.
VII.H.2	The interim financial statements should include a balance sheet, income statement, cash flow statement, and a statement showing either (i) changes in equity other than those arising from capital transactions with owners and distributions to owners, or (ii) all changes in equity (including a subtotal of all non-owner items recognized directly in equity). Each of these statements may be in condensed form as long as it contains the major line items from the latest audited financial statements and includes the major components of assets, liabilities and equity (in the case of the balance sheet); income and expenses (in the case of the income	

¹⁰ 3 months following the end of a financial year for the establishment / approval of the financial statements are too short. 6 months are required. Therefore the last year of audited financial statements should be allowed to be as old as 18 and not only 15 months. Otherwise there would be much less new issues / prospectuses between April 1 and June 30 than currently.

	statement) and the major subtotals of cash flows (in the case of the cash flow statement). The interim financial statements should include comparative statements for the same period in the prior financial year, except that the requirement for comparative balance sheet information may be satisfied by presenting the year end balance sheet. If not included in the primary financial statements, a note should be provided analysing the changes in each caption of shareholders' equity presented in the balance sheet. The interim financial statements should include selected note disclosures that will provide an explanation of events and changes that are significant to an understanding of the changes in financial position and performance of the enterprise since the last annual reporting date. If, at the date of the document, the company has published interim financial statements that cover a more current period than those otherwise required by this standard, the more current interim financial statements must be included in the document. Companies are encouraged, but not required, to have any interim financial statements in the document reviewed by an independent auditor. If such a review has been performed and is referred to in the document, a copy of the auditor's interim review report must be provided in the document.	
VII.I	<u>Export sales</u> If the amount of export sales constitutes a significant portion of the company's total sales volume, provide the total amount of export sales and the percent and amount of export sales in the total amount of sales volume.	VIII.A.6.
VII.J.	<u>Dividend policy</u> Describe the company's policy on dividend distributions.	VIII.A.8.
VII.J.1	The amount of the dividend per share for the last three financial years, adjusted, where the number of shares in the company has changed, to make it comparable.	
VII.K	<u>Legal and arbitration Proceedings</u> Provide information on any legal or arbitration proceedings (including any such proceedings which are pending or threatened of which the company is aware), including those relating to bankruptcy, receivership or similar proceedings and those involving any third party, which may have, or have had in the recent past (covering at least the previous 12 months), significant effects on the company and/or group's financial position or profitability. This includes governmental proceedings pending or known to be contemplated.	VIII.A.7.
VII.L.	<u>Significant change in the company's financial or trading position</u> A description of any significant change in the financial or trading	VIII.B.

	position of the group which has occurred since the end of the last financial period for which either audited financial statements or interim financial statements have been published, or an appropriate negative statement.	
VIII	<u>Additional information</u>	
VIII.A	<u>Share Capital.</u> The following information shall be given as of the date of the most recent balance sheet included in the financial statements:	X.A.
VIII.A.1	The amount of issued capital and, for each class of share capital: (a) the number of shares authorized; (b) the number of shares issued and fully paid and issued but not fully paid; (c) the par value per share, or that the shares have no par value; and (d) a reconciliation of the number of shares outstanding at the beginning and end of the year. If more than 10% of capital has been paid for with assets other than cash within the past five years, that fact should be stated.	X.A.1.
VIII.A.2	If there are shares not representing capital, the number and main characteristics of such shares shall be stated.	X.A.2.
VIII.A.3	Indicate the number, book value and face value of shares in the company held by or on behalf of the company itself or by subsidiaries of the company.	X.A.3.
VIII.A.4	The amount of any convertible debt securities, exchangeable debt securities or debt securities with warrants, with an indication of the conditions governing and the procedures for conversion, exchange or subscription.	
VIII.A.5	Where there is authorized but unissued capital or an undertaking to increase the capital, for example, in connection with warrants, convertible obligations or other outstanding equity-linked securities, or subscription rights granted, indicate: (i) the amount of outstanding equity-linked securities and of such authorized capital or capital increase and, where appropriate, the duration of the authorization; (ii) the categories of persons having preferential subscription rights for such additional portions of capital; and (iii) the terms, arrangements and procedures for the share issue corresponding to such portions.	X.A.4.
VIII.A.6	The persons to whom any capital of any member of the group is	X.A.5.

	under option or agreed conditionally or unconditionally to be put under option, including the title and amount of securities covered by the options; the exercise price; the purchase price, if any; and the expiration date of the options, or an appropriate negative statement. Where options have been granted or agreed to be granted to all the holders of shares or debt securities, or of any class thereof, or to employees under an employees' share scheme, it will be sufficient so far as the names are concerned, to record that fact without giving names.	
VIII.A.7	A history of share capital for the last three years identifying the events during such period which have changed the amount of the issued capital and / or the number and classes of shares of which it composed, together with a description of changes in voting rights attached to the various classes of shares during that time. Details should be given of the price and terms of any issue including particulars of consideration where this was other than cash (including information regarding discounts, special terms or instalment payments). If there are no such issues, an appropriate negative statement must be made. The reason for any reduction of the amount of capital and the ratio of capital reductions also shall be given.	X.A.6.
VIII.B	<u>Memorandum and Articles of Association.</u>	
VIII.B.1	Describe the company's objects and purposes and where they can be found in the memorandum and articles.	X.B.1.
VIII.B.2	With respect to directors, provide a summary of any provisions of the company's articles of association or charter and bylaws with respect to: (a) a director's power to vote on a proposal, arrangement or contract in which the director is materially interested; (b) the directors' power, in the absence of an independent quorum, to vote compensation to themselves or any members of their body; (c) borrowing powers exercisable by the directors and how such borrowing powers can be varied; (d) retirement or non-retirement of directors under an age limit requirement; and (e) number of shares, if any, required for director's qualification.	X.B.2.
VIII.B.3	Describe the rights, preferences and restrictions attaching to each class of the shares, including: (a) dividend rights, including the time limit after which dividend entitlement lapses and an indication of the party	X.B.3.

	in whose favour this entitlement operates; (b) voting rights, including whether directors stand for re-election at staggered intervals and the impact of that arrangement where cumulative voting is permitted or required; (c) rights to share in the company's profits; (d) rights to share in any surplus in the event of liquidation; (e) redemption provisions; (f) sinking fund provisions; (g) liability to further capital calls by the company; and (h) any provision discriminating against any existing or prospective holder of such securities as a result of such shareholder owning a substantial number of shares.	
VIII.B.4	Describe what action is necessary to change the rights of holders of the stock, indicating where the conditions are more significant than is required by law.	X.B.4.
VIII.B.5	Describe the conditions governing the manner in which annual general meetings and extraordinary general meetings of shareholders are convoked, including the conditions of admission.	X.B.5.
VIII.B.6	Describe any limitations on the rights to own securities, including the rights of non-resident or foreign shareholders to hold or exercise voting rights on the securities imposed by foreign law or by the charter or other constituent document of the company or state that there are no such limitations if that is the case.	X.B.6.
VIII.B.7	Describe briefly any provision of the company's articles of association, charter or bylaws that would have an effect of delaying, deferring or preventing a change in control of the company and that would operate only with respect to a merger, acquisition or corporate restructuring involving the company (or any of its subsidiaries).	X.B.7.
VIII.B.8	Indicate the bylaw provisions, if any, governing the ownership threshold above which shareholder ownership must be disclosed.	X.B.8.
VIII.B.9	Describe the conditions imposed by the memorandum and articles of association governing changes in the capital, where such conditions are more stringent than is required by law.	X.B.10.

VIII.C	<u>Material Contracts.</u> Provide a summary of each material contract, other than contracts entered into in the ordinary course of business, to which the company or any member of the group is a party, for the two years immediately preceding publication of the document, including dates, parties, general nature of the contracts, terms and conditions, and amount of any consideration passing to or from the company or any other member of the group. Provide details of any other contract (not being a contract entered into in the ordinary course of business) entered into by any member of the group which contains any provision under which any member of the group has any obligation or entitlement which is material to the group as at the date of the registration document. <u>11</u>	X.C.	
VIII.D	<u>Exchange Controls.</u> Where material to the company, describe any governmental laws, decrees, regulations or other legislation of the home country of the company which may affect:	X.D.	
VIII.D.1	the import or export of capital, including the availability of cash and cash equivalents for use by the company's group.	X.D.1.	
VIII.D.2	the remittance of dividends, interest or other payments to non-resident holders of the company's securities.	X.D.2.	
VIII.E	<u>Statement by Experts.</u> Where a statement or report attributed to a person as an expert is included in the document, provide such person's name, address and qualifications and a statement to the effect that such statement or report is included, in the form and context in which it is included, with the consent of that person, who has authorised the contents of that part of the document.¹²	X.G.	
VIII.F	<u>Documents on Display.</u> A statement that for the life of the registration document the	X.H.	

¹¹ [The term "material contract" is too vague. If it is used at all, it has to be limited to "material with respect to the performance of the security to which the prospectus relates". Nevertheless, one has to bear in mind that the purpose of a prospectus is not to provide a due diligence report to the investor but only to inform him about the nature and the major risks of his investments. Accordingly, it should be enough if any risk resulting from such a contract is described in the prospectus.](#)

¹² [Often such statements / reports are taken from publicly available documents. Therefore, a consent of the person having made the statement should not be required. Rather, only a statement where the information has been drawn from shall be made.](#)

	following documents (or copies thereof), where applicable, may be inspected: (a) the memorandum and articles of association of the issuer (b) each document mentioned in paragraph VIII.C (material contracts)¹³ (c)^(b) all reports, letters, and other documents, balance sheets, valuations and statements by any expert any part of which is included or referred to in the registration document/prospectus listing particulars; (d)^(c) the audited accounts of the issuer or, in the case of a group, the consolidated audited accounts of the issuer and its subsidiary undertakings for each of the two financial years preceding the publication of the listing particulars. The company shall provide an indication of where the documents concerning the company which are referred to in the document may be inspected, by physical or electronic means.	
VIII.G	<u>Subsidiary Information.</u>	X.I.
VIII.G.1	Individual details listed below relating to the undertakings in which the issuer holds a proportion of the capital likely to have a significant effect on the assessment of its own assets and liabilities, financial position or profits and losses. The items of information listed below must be given in any event for every undertaking in which the issuer has a direct or indirect participating interest, if the book value of that participating interest represents at least 10 % of the capital and reserves or accounts for at least 10 % of the net profit or loss of the issuer or, in the case of a group, if the book value of that participating interest represents at least 10 % of the consolidated net assets or accounts for at least 10 % of the consolidated net profit or loss of the group. The items of information listed below need not be given provided that the issuer proves that its holding is of a purely provisional nature.	

¹³ [Only publicly available documents should be displayed. Other documents, in particular material contracts, often contain confidential information and therefore may not be publicly displayed. In addition, a complete display of these contracts could affect the competition because such a display would give competitors an easy access to contracts they otherwise would not have access to. Furthermore, if all material contracts on display had to be translated into the same language as the prospectus, this would be so cost and time consuming that most issues would become too burdensome for issuers. Last but not least, as already stated with regard to VIII.C the prospectus or any documents relating to the issuer should not be a due diligence report but should inform the investor only about the nature and the risks of the security involved. An overload of information generally does not make the investors happier or more informed but rather deters them from being interested in the product.](#)

	Similarly, the information required under points (e) and (f) may be omitted where the undertaking in which a participating interest is held does not publish its annual accounts. [will need to be determined following IFRS agreement and implementation] Pending subsequent coordination of provisions relating to consolidated annual accounts, the Member States may authorize the competent authorities to permit the omission of the information prescribed in points (d) to (j) if the annual accounts of the undertakings in which the participating interests are held are consolidated into the group annual accounts or if the value attributable to the interest under the equity method is disclosed in the annual accounts, provided that, in the opinion of the competent authorities, the omission of that information is not likely to mislead the public with regard to the facts and circumstances, knowledge of which is essential for the assessment of the security in question. The information provided for under points (g) and (j) may be omitted if, in the opinion of the competent authorities, such omission does not mislead investors. (a) Name and registered office of the undertaking. (b) Field of activity. (c) Proportion of capital and voting power (if different) held. (d) Issued capital. (e) Reserves. (f) Profit or loss arising out of ordinary activities, after tax, for the last financial year. (g) Value at which the issuer obliged to publish the registration document shows shares held in its accounts. (h) Amount still to be paid up on shares held. (i) Amount of dividends received in the course of the last financial year in respect of shares held. (j) Amount of the debts owed to and by the issuer with regard to the undertaking.	
VIII.G.2	The name, registered office and proportion of capital held in respect of each of the undertakings not referred to in [the paragraph above] in which the issuer holds at least 10 % of the capital. These details may be omitted where they are of negligible importance for the purpose of making an informed assessment of the assets and liabilities, financial position, profits and losses and prospects of the company or its group and of the rights attaching to its securities.	X.I.
VIII.G.3	When the registration document comprises <u>s</u> consolidated annual accounts, disclosure: (a) of the consolidation principles applied. (b) of the names and registered offices of the undertakings included in the consolidation, where that information is important for the purpose of assessing the assets and liabilities, the financial position and the profits and losses	X.I.

	of the issuer. (c) for each of the undertakings referred to in (b): - the total proportion of third-party interests, if annual accounts are consolidated globally; - the proportion of the consolidation calculated on the basis of interests, if consolidation has been effected on a pro rata basis.	
--	---	--