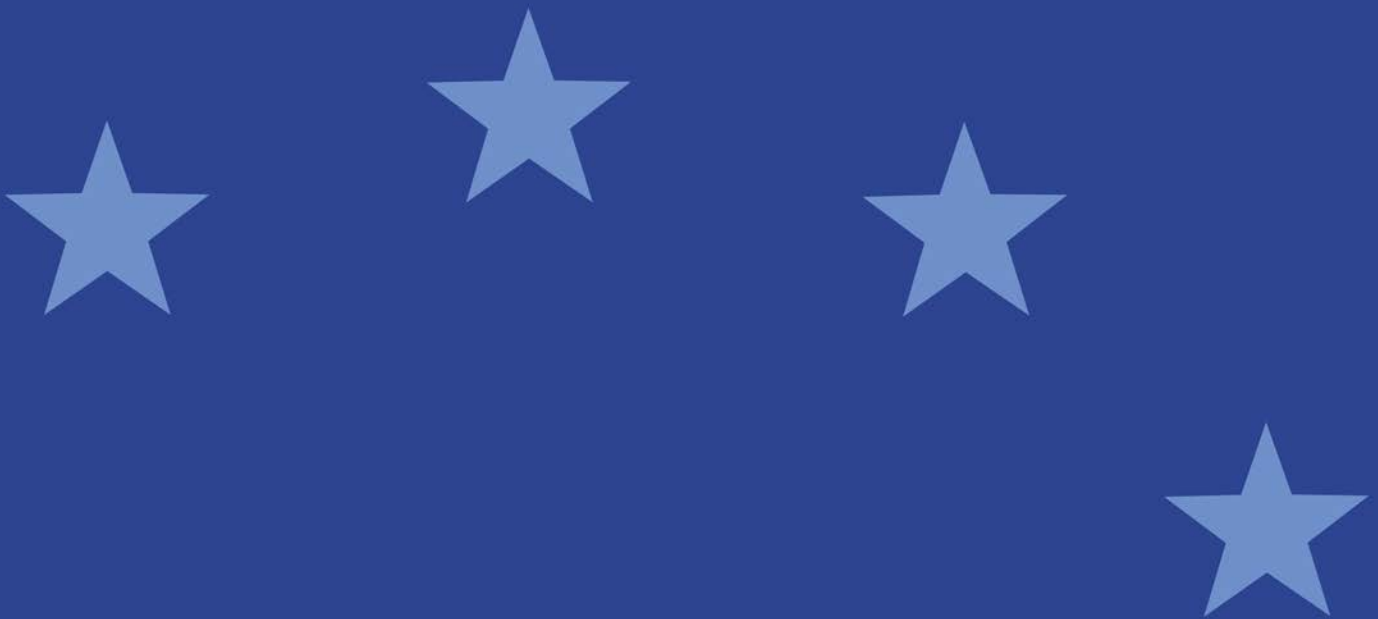




European Securities and
Markets Authority

Response form for the Consultation Paper on draft RTS under the new Prospectus Regulation



Responding to this paper

ESMA invites responses to the questions set out throughout its Consultation Paper on draft RTS under the new Prospectus Regulation (ESMA31-62-802). Responses are most helpful if they:

- respond to the question stated;
- contain a clear rationale; and
- describe any alternatives ESMA should consider.

ESMA will consider all responses received by 9 March 2018.

Instructions

In order to facilitate analysis of responses to the Consultation Paper, respondents are requested to follow the below steps when preparing and submitting their response:

- Insert your responses to the questions in the Consultation Paper in the present response form.
- Please do not remove tags of the type <ESMA_QUESTION_PR_1>. Your response to each question has to be framed by the two tags corresponding to the question.
- If you do not wish to respond to a given question, please do not delete it but simply leave the text “TYPE YOUR TEXT HERE” between the tags.
- When you have drafted your response, name your response form according to the following convention: ESMA_PR_nameofrespondent_RESPONSEFORM. For example, for a respondent named ABCD, the response form would be entitled ESMA_PR_ABCD_RESPONSEFORM.
- Upload the form containing your responses, **in Word format**, to ESMA’s website (www.esma.europa.eu under the heading “Your input – Open consultations” → “Consultation on draft RTS under the new Prospectus Regulation”).

Publication of responses

All contributions received will be published following the close of the consultation, unless you request otherwise. **Please clearly indicate by ticking the appropriate checkbox on the website submission page if you do not wish your contribution to be publicly disclosed.** 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 “Data protection”.

Who should read the Consultation Paper

The Consultation Paper may be of particular interest to investors, issuers, offerors or persons asking for admission to trading on a regulated market as well as to any market participant who is affected by the new Prospectus Regulation (Regulation (EU) 2017/1129).



General information about respondent

Name of the company / organisation	The Association of Investment Companies
Activity	Regulated markets/Exchanges/Trading Systems
Are you representing an association?	<input checked="" type="checkbox"/>
Country/Region	UK

Introduction

Please make your introductory comments below, if any:

<ESMA_COMMENT_PR_1>

The Association of Investment Companies (AIC) is a trade body for the closed-ended investment company sector. We represent over 345 investment companies, managing assets of over £160 billion. The AIC's members are predominantly listed on the Main Market of the London Stock Exchange. Some have shares admitted to trading on the Specialist Fund Segment; others are quoted on AIM.

The AIC's members include investment trusts, Venture Capital Trusts, UK REITs and non-EU companies. Our non-EU members are primarily domiciled in Guernsey and Jersey.

The AIC considers that its members are within the scope of closed-ended funds for the purpose of these draft RTS.

The AIC **recommends** that the RTS are flexible, particularly in relation to the number of APMs that companies can disclose in the summary showing key financial information. Companies should also be allowed to describe those APMs in footnotes to help investors understand the figures that have been provided.

The AIC also **recommends** that companies be allowed to assess which are the most useful measure of historical performance for shareholders and have the option to include those figures in the historical performance section for closed-ended funds.

<ESMA_COMMENT_PR_1>



Key financial information in the summary

Q1: Do you agree that the KFI extracted from the issuer’s historical financial information should be sign-posted?

<ESMA_QUESTION_PR_1>

There should be no requirement for companies to flag historic financial information that has been extracted from audited financial statements. Companies should be able to add a flag to identify this information where it is considered to be useful to investors to allow them to differentiate these figures from the APM figures provided in the summary.

It is important that companies are able to provide APM figures in the summary to ensure investors are provided with the most relevant information about a company to enable them to make an informed investment decision.

<ESMA_QUESTION_PR_1>

Q2: Would you suggest the inclusion of specific templates for other types of issuer? Please specify and explain your reasoning.

<ESMA_QUESTION_PR_2>

TYPE YOUR TEXT HERE

<ESMA_QUESTION_PR_2>

Q3: Do you agree that cash flow from operations is the most useful measure of cash flow for non-financial entities issuing equity and that cash flow from financing activities and cash flow from investing activities are not so relevant for investors in equity securities?

<ESMA_QUESTION_PR_3>

The AIC agrees that cash flow figures are less important for closed ended funds. There should be no requirement to include these figures for these issuers.

<ESMA_QUESTION_PR_3>

Q4: Given the page limit for the summary please provide your views on which items of historical financial information would be most useful for retail investors.

<ESMA_QUESTION_PR_4>

Annex VI of the draft RTS contains the key financial information ESMA proposes should be included in the summary for closed ended funds.

Additionally, ESMA proposes that the number of additional voluntary APMs that can be included in this financial information be limited to three.

The AIC does not agree that there should be a limit on the number of additional APMs that can be included in the summary. Companies should be able to provide shareholders with the most relevant performance information to assist them in making an informed investment decision. The overall limit on the



number of pages of the summary will ensure that companies only provide the most pertinent APM information in the summary. |

<ESMA_QUESTION_PR_4>

Q5: Do you agree with the proposal to allow the use of footnotes to describe APMs or could this result in lengthy footnotes and complicated explanations?

<ESMA_QUESTION_PR_5>

|The AIC agrees with the proposal to allow the use of footnotes to describe APMs. This is useful information for investors and will help them understand the APM figures provided. The Prospectus Regulation states that the summary shall not contain cross references to other parts of the prospectus, therefore it is important for a full description of the APM figures used, to be provided to investors within the summary. |

<ESMA_QUESTION_PR_5>

Q6: Do you agree that issuers should be given flexibility to present pro forma financial information as additional columns to the relevant tables or as a separate table? If not, should a format be mandated, bearing in mind the page limit for the summary as well as the requirement for the summary to be comprehensible?

<ESMA_QUESTION_PR_6>

|Yes. The AIC agrees that issuers should be given the flexibility to present pro-forma financial information as additional columns to the relevant tables or as a separate table.

|
<ESMA_QUESTION_PR_6>

Q7: Do you agree that complex financial information in the summary should be presented according to its presentation in the prospectus? If not, please specify and provide alternative ways of presentation.

<ESMA_QUESTION_PR_7>

|TYPE YOUR TEXT HERE |

<ESMA_QUESTION_PR_7>

Q8: Which financial measures are most useful for retail investors to determine the health of a credit institution? Do you consider that the CET1 is comprehensible for retail investors? Please specify.

<ESMA_QUESTION_PR_8>

|TYPE YOUR TEXT HERE |

<ESMA_QUESTION_PR_8>



Q9: Do you agree that it should be mandatory for credit institutions to disclose SREP information in relation to Common Tier One Equity, the minimum prudential capital requirements, the Total Capital Ratio and the Leverage Ratio in the summary?

<ESMA_QUESTION_PR_9>
[TYPE YOUR TEXT HERE]
<ESMA_QUESTION_PR_9>

Q10 : Do you agree with the choice of measures for insurance companies?

<ESMA_QUESTION_PR_10>
[TYPE YOUR TEXT HERE]
<ESMA_QUESTION_PR_10>

Q11 : Do you think it would be useful for retail investors to include a measure of historical performance for closed end funds in the summary?

<ESMA_QUESTION_PR_11>

Annex VI in the draft RTS identifies the information to be provided relevant to closed ended funds. This includes the company's latest available net asset value and a summary of key figures from the previous three years' income statements and balance sheets.

Closed ended companies should have the option to include further measures of historical performance figures in the summary where they consider it useful for retail investors. For example, if a company has a published objective to pay a progressive dividend to its shareholders, the company may consider providing historic dividend payments in its summary. Alternatively, if a company has the objective of securing long-term capital growth, it may consider providing historic share price total return or net asset value total return figures in its summary.

It is important for the rules to be flexible and allow companies to assess which is the most useful measure of historical performance for shareholders, if any, to include in the prospectus summary.

Please also see our response to question 4 above.]
<ESMA_QUESTION_PR_11>

Q12 : Do you think that investment companies which are subject to capital requirements should be required to include regulated capital ratios in their summary?

<ESMA_QUESTION_PR_12>
[TYPE YOUR TEXT HERE]
<ESMA_QUESTION_PR_12>

Q13 : Would the issuer, offeror or person asking for admission to trading incur costs if the proposed provisions are adopted? If so, please specify the nature of such costs, including quantifying them.



<ESMA_QUESTION_PR_13>
[TYPE YOUR TEXT HERE]
<ESMA_QUESTION_PR_13>

Data and machine readability

Q14 : Do you believe that the data related to the amount raised should be made mandatory? Please explain your reasons.

<ESMA_QUESTION_PR_14>
[TYPE YOUR TEXT HERE]
<ESMA_QUESTION_PR_14>

Q15 : Do you agree with the data items that have been identified as necessary for the purpose of classification as well as to allow for the compilation of the annual report under Article 47 of the Prospectus Regulation? Would you like to propose any additional items or suggest items that should in your view be deleted? Please explain your reasons.

<ESMA_QUESTION_PR_15>
[TYPE YOUR TEXT HERE]
<ESMA_QUESTION_PR_15>

Q16 : Do you agree with the ESMA proposal to maintain the current system in place whereby NCAs submit data to ESMA in XML format as the practical arrangement to ensure that such data is machine readable? Do you agree that, by keeping the data submission system unchanged, adaptation costs are minimised for the market at large?

<ESMA_QUESTION_PR_16>
[TYPE YOUR TEXT HERE]
<ESMA_QUESTION_PR_16>

Q17 : Do you agree that the proposed amendment to the technical advice on prospectus approval could contribute to provide clarity on the way data referred to in Annex VII are collected by NCAs?

<ESMA_QUESTION_PR_17>
[TYPE YOUR TEXT HERE]
<ESMA_QUESTION_PR_17>

Q18 : Do you have suggestions in relation to how the efficiency, accuracy and timeliness of the data compilation and submission process can be further improved? In your experience, is there any specific reporting format or standard that you would deem most appropriate in this context?

<ESMA_QUESTION_PR_18>
[TYPE YOUR TEXT HERE]
<ESMA_QUESTION_PR_18>

Advertisements

Q19 : Do you consider that an advertisement should contain at least a hyperlink to the website where it is published and where available and technically feasible additional information that would facilitate tracing the prospectus? Please provide examples of the additional information that you think would be helpful to include in the advertisement.

<ESMA_QUESTION_PR_19>
[TYPE YOUR TEXT HERE]
<ESMA_QUESTION_PR_19>

Q20 : Do you consider that the definition for complex securities set out in para 140 provides clarity to issuers and would be helpful in deciding when the comprehension alert referred to in Article 8(3)(b) of the PRIIPs Regulation should be included in an advertisement?

<ESMA_QUESTION_PR_20>
[TYPE YOUR TEXT HERE]
<ESMA_QUESTION_PR_20>

Q21 : Do you agree with the requirements suggested for Article 11 of the RTS? If not, please provide your reasoning.

<ESMA_QUESTION_PR_21>
[The AIC agrees that the table in Annex VII as set out in Article 11 is appropriate. No further requirements should be added to this list.]
<ESMA_QUESTION_PR_21>

Q22 : In particular, do you agree with the requirement to include warnings in advertisements? Do you consider that the suggested warnings are fit for purpose in terms of investor protection?

<ESMA_QUESTION_PR_22>



[TYPE YOUR TEXT HERE]
<ESMA_QUESTION_PR_22>

Q23 : Would the issuer, offeror or person asking for admission to trading incur costs if the aforementioned provisions are adopted? If so, please specify the nature of such costs, including whether they are one-off or ongoing and, quantify them.

<ESMA_QUESTION_PR_23>
[TYPE YOUR TEXT HERE]
<ESMA_QUESTION_PR_23>

Supplements

Q24 : Do you agree that Article 2 of the First Commission Delegated Regulation should be carried over, in its entirety, to Level 2 under the new regime?

<ESMA_QUESTION_PR_24>
[The AIC agrees with the proposed approach and Article 2 should be carried over in its entirety. The current regime regarding the obligation to publish a supplement is working effectively and there is no reason to change it.]
<ESMA_QUESTION_PR_24>

Q25 : Do you agree that the additional requirements identified from ESMA's draft technical advice should also be included.

<ESMA_QUESTION_PR_25>
[TYPE YOUR TEXT HERE]
<ESMA_QUESTION_PR_25>

Q26 : Do you agree that the publication of audited financial statements by an issuer of retail debt or retail derivative securities should not trigger the requirement to publish a supplementary prospectus?

<ESMA_QUESTION_PR_26>
[TYPE YOUR TEXT HERE]
<ESMA_QUESTION_PR_26>

Q27 : Would the issuer, offeror or person asking for admission to trading incur costs if the aforementioned provisions are adopted? If so, please specify the nature of such costs, including quantifying them.



<ESMA_QUESTION_PR_27>
[TYPE YOUR TEXT HERE]
<ESMA_QUESTION_PR_27>

Publication

Q28 : Do you agree that only Article 6(1)(c) and 6(3) of the Second Commission Delegated Regulation need to be carried over to Level 2 under the new regime?

<ESMA_QUESTION_PR_28>
[TYPE YOUR TEXT HERE]
<ESMA_QUESTION_PR_28>

Q29 : Do you agree that no other publication provisions of the new Prospectus Regulation need to be specified by way of RTS? If not, please identify the provisions which should be specified.

<ESMA_QUESTION_PR_29>
[The AIC agrees that no other publication provisions need to be specified by way of RTS, the RTS as drafted are sufficiently detailed.]
<ESMA_QUESTION_PR_29>

Q30 : Do you believe that the proposed publication provisions will impose additional costs on issuers, offerors or persons asking for admission to trading? If yes, please specify the type and nature of such costs, including whether they are one-off or on-going, and quantify them.

<ESMA_QUESTION_PR_30>
[TYPE YOUR TEXT HERE]
<ESMA_QUESTION_PR_30>