

Prospectus Regulation Tracker

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The new Prospectus Regulation¹, published in the Official Journal on 30 June 2017, envisages further publications by the European Commission (the “Commission”) and the European Securities and Markets Authority (“ESMA”). In addition, certain obligations are placed on individual Member States. Our Prospectus Regulation Tracker will help you plan for the changes ahead.

Reference	Subject	Action	Timing	Status
Article 1(7)	Minimum Information Content of Documents issued in relation to a Merger or Takeover	The Commission is empowered to adopt delegated acts setting out the minimum content of documents issued in connection with an issue of securities in the context of a merger, dividend or takeover.	Not stated	Commission requested technical advice from ESMA on 28 February 2017 (subsequently updated) to be received within 18 months. ESMA published draft technical advice on the minimum information content for prospectus exemption on 13 July 2018.
Article 3(2)	Exempt Domestic Offer Threshold	Member States shall notify the Commission and ESMA (i) whether and how domestic offers below a certain threshold are exempted; and (ii) the amount of such threshold (which shall be less than EUR 8,000,000). Member States shall notify the Commission and ESMA of any subsequent changes to that such threshold.	Article 3(2) is applicable from 21 July 2018.	In the UK, this offer exemption was set at the maximum threshold of €8,000,000 (Financial Services and Markets Act 2000 (Prospectus and Markets in Financial Instruments) Regulations 2018).
Article 7(13)	Key Financial Information in Summaries	ESMA shall develop draft regulatory technical standards to specify the content and format of presentation of key financial information to be included in summaries.	Due 21 July 2018.	ESMA published Consultation Paper on draft regulatory technical standards on 15 December 2017. ESMA published a final report on its draft regulatory technical standards on 17 July 2018.

¹ 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.

Reference	Subject	Action	Timing	Status
Article 9(14)	Universal Registration Documents	The Commission shall adopt delegated acts specifying the criteria for scrutiny and review of Universal Registration Documents, procedures for approval and filing and the circumstances which result in loss of “frequent issuer” status.	Due 21 January 2019.	<p>Commission requested technical advice from ESMA on 28 February 2017 (subsequently updated) to be received within 13 months.</p> <p>ESMA published draft Technical Advice on 06 July 2017 and a final report on 03 April 2018.</p> <p>The Commission published the draft text of its delegated regulation on the format, content, scrutiny and approval of the prospectus on 28 November 2018</p>
Article 13(1)	Format of Prospectuses	The Commission shall adopt delegated acts to supplement the Regulation regarding the format of the prospectus, the base prospectus and the final terms, and the schedules defining the specific information to be included in a prospectus, including LEIs and ISINs, in a way that avoids duplication.	Final version of ESMA’s technical advice expected to be published in Q1 of 2018.	<p>Commission requested technical advice from ESMA on 28 February 2017 (subsequently updated) to be received within 13 months.</p> <p>ESMA published draft Technical Advice on 06 July 2017 and a final report on 03 April 2018.</p> <p>The Commission published the draft text of its delegated regulation on the format, content, scrutiny and approval of the prospectus on 28 November 2018</p>
Article 13(2)	Minimum Content of a Universal Registration Document	The Commission shall adopt delegated acts specifying the minimum information to be included in a Universal Registration Document.	Due 21 January 2019.	<p>Commission requested technical advice from ESMA on 28 February 2017 (subsequently updated) to be received within 13 months.</p> <p>ESMA published draft Technical Advice on 06 July 2017 and a final report on 03 April 2018.</p> <p>The Commission published the draft text of its delegated regulation on the format, content, scrutiny and approval of the prospectus on 28 November 2018</p>

Reference	Subject	Action	Timing	Status
Article 14(3)	Simplified Disclosure Regime for Secondary Issuances	The Commission shall adopt delegated acts specifying the reduced information required for prospectuses for secondary issuances.	Due 21 January 2019.	<p>Commission requested technical advice from ESMA on 28 February 2017 (subsequently updated) to be received within 13 months.</p> <p>ESMA published draft Technical Advice on 06 July 2017 and a final report on 03 April 2018.</p> <p>The Commission published the draft text of its delegated regulation on the format, content, scrutiny and approval of the prospectus on 28 November 2018</p>
Article 15(2)	EU Growth Prospectus	The Commission shall adopt delegated acts specifying the reduced content and standardised format of an EU Growth Prospectus.	Due 21 January 2019.	<p>Commission requested technical advice from ESMA on 28 February 2017 (subsequently updated) to be received within 13 months.</p> <p>ESMA published draft Technical Advice on 06 July 2017 and a final report on 03 April 2018.</p> <p>The Commission published the draft text of its delegated regulation on the format, content, scrutiny and approval of the prospectus on 28 November 2018</p>
Article 16(4)	Risk Factors	ESMA shall develop guidelines to assist competent authorities in their review of specificity and materiality of risk factors and presentation of risk factors.	Not stated	ESMA published a consultation on its guidelines on risk factors under the Prospectus Regulation on 13 July 2018.
Article 18(4)	Omission of Information	ESMA may (or shall if requested by the Commission) develop draft regulatory technical standards to specify cases where information may be omitted from prospectuses (taking into account yearly reports submitted by Member States to ESMA of omissions which have been authorised in the previous year).	Not stated.	Awaiting publication.
Article 19(4)	Incorporation by Reference	ESMA may (or shall if requested by the Commission) develop draft regulatory technical standards to update the list of documents which may be incorporated by reference into a prospectus.	Not stated.	Awaiting publication.

Reference	Subject	Action	Timing	Status
Article 20(11)	Scrutiny of Prospectuses	The Commission shall adopt delegated acts specifying the criteria for the scrutiny of prospectuses, in particular the completeness, comprehensibility and consistency of information and the procedures for approval.	Due 21 January 2019.	<p>Commission requested technical advice from ESMA on 28 February 2017 (subsequently updated) to be received within 13 months.</p> <p>ESMA published draft Technical Advice on 06 July 2017 and a final report on 03 April 2018.</p> <p>The Commission published the draft text of its delegated regulation on the format, content, scrutiny and approval of the prospectus on 28 November 2018</p>
Article 20(12) and (13)	Scrutiny of Prospectuses and Peer Review	ESMA shall develop guidelines addressed to the competent authorities regarding compliance with the Prospectus Regulation and shall foster convergence regarding the efficiency, methods and timing of the scrutiny by the competent authorities of prospectuses. ESMA shall organise and conduct at least one peer review of the scrutiny and approval procedures of competent authorities.	The report of the peer review to be published by 21 July 2022.	Awaiting publication.
Article 21(12)	Publication of Prospectuses	ESMA may (or shall if requested by the Commission) develop draft regulatory technical standards to specify further the requirements relating to the publication of a prospectus.	Not stated.	<p>ESMA published Consultation Paper on draft regulatory technical standards on 15 December 2017.</p> <p>ESMA published a final report on its draft regulatory technical standards on 17 July 2018.</p>
Article 21(13)	Website Publication of Prospectuses	ESMA shall develop draft regulatory technical standards to specify the data necessary for the classification of prospectuses on websites of competent authorities and the practical arrangements to ensure that such data, including the ISINs of the securities and the LEIs of the issuers, offerors and guarantors, is machine readable.	Due 21 July 2018.	<p>ESMA published Consultation Paper on draft regulatory technical standards on 15 December 2017.</p> <p>ESMA published a final report on its draft regulatory technical standards on 17 July 2018.</p>
Article 22(9) and (10)	Advertisements	ESMA shall develop draft regulatory technical standards relating to advertisements including provisions regarding dissemination and shall develop guidelines and recommendations addressed to competent authorities regarding cooperation between the home Member State and the Member State where the advertisement is disseminated.	Due 21 July 2018.	<p>ESMA published Consultation Paper on draft regulatory technical standards on 15 December 2017.</p> <p>ESMA published a final report on its draft regulatory technical standards on 17 July 2018.</p>

Reference	Subject	Action	Timing	Status
Article 23(7)	Supplements	ESMA shall develop draft regulatory technical standards to specify situations where a significant new factor, material mistake or material inaccuracy requires a supplement.	Due 21 July 2018.	ESMA published Consultation Paper on draft regulatory technical standards on 15 December 2017. ESMA published a final report on its draft regulatory technical standards on 17 July 2018.
Article 25(6) and (7)	Establishment of Passporting Portal	ESMA shall establish a “passporting” notification portal and shall develop draft regulatory technical standards relating to the portal.	Due 21 July 2018.	ESMA published a final report on its draft regulatory technical standards on 17 July 2018 and this included RTS on technical arrangements for the notification portal (that were not previously consulted on.)
Article 25(8) and Article 26(6)	Standard Forms and Procedures for Passporting	ESMA may develop draft implementing technical standards to establish standard forms, templates and procedures for “passporting”.	Not stated.	Awaiting publication.
Article 29(3)	Equivalence Criteria for Third Country Prospectuses	The Commission is empowered to adopt delegated acts to establish general equivalence criteria for third country prospectuses.	Not Stated.	Commission requested technical advice from ESMA on 28 February 2017 (subsequently updated) to be received within 18 months.
Article 30(4)	Co-operation Agreements with Third Countries	ESMA may (or shall if requested by the Commission) develop draft regulatory technical standards to determine the minimum content of co-operation arrangements between Member States and non-EU countries.	Not stated.	Awaiting publication.
Article 31(1)	Member State Competent Authority	Each Member State shall designate a single competent authority responsible for carrying out its duties under the Prospectus Regulation and shall inform the Commission, ESMA and the competent authorities of other Member States.	Not stated.	Awaiting publication.
Article 33(6) and (7)	Exchange of Information	ESMA may (or shall if requested by the Commission) develop draft regulatory technical standards to specify information to be exchanged between competent authorities including standard forms, templates and procedures.	Not stated.	Awaiting publication.
Article 34(3)	Co-operation with ESMA	ESMA may develop draft regulatory technical standards regarding competent authority co-operation with ESMA.	Not stated.	Awaiting publication.
Article 38(1)	Administrative Sanctions	Member States shall notify the Commission and ESMA of administrative sanctions applicable under national law (including criminal laws) for certain breaches of the Prospectus Regulations.	Due 21 July 2018.	Awaiting publication.

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