

MFSA

MALTA FINANCIAL SERVICES AUTHORITY

CIRCULAR IN RELATION TO THE NEW PROSPECTUS REGULATION (PR): RISK FACTORS AND EXEMPTIONS FOR TAKEOVERS, MERGERS AND DIVISIONS

The proposed technical advice on exempt documents produced for the purpose of offers/admission of securities connected to a takeover, merger or division and the proposed guidelines on risk factors – two public Consultation Papers

1.0 Introduction

The MFSA would like to inform market participants that the European Securities and Markets Authority ('ESMA') has on 13th July 2018, published two Consultation Papers (CPs) in order to seek stakeholders' views on: the proposed technical advice on exempt documents produced for the purpose of offers/admission of securities connected to a takeover, merger or division; and on its proposed guidelines on risk factors. The two CPs can be accessed through the following link: <https://www.esma.europa.eu/press-news/esma-news/prospectuses-esma-consults-risk-factors-and-exemptions-takeovers-mergers-and>.

2.0 Consultation paper on minimum information content for prospectus exemption

Where a takeover, merger or division occurs Issuers may offer/admit securities without publishing a prospectus, on the condition that a document is made available to investors describing the transaction and its impact on the Issuer. In relation to the minimum information content of such document ESMA is consulting on its draft technical advice, specifically in relation to:

- Offers to the public or admission to trading on a regulated market; and
- How and to what extent the operational and financial activities of the Issuer may be affected by a takeover, merger or division.

3.0 Consultation paper on guidelines on risk factors

In order to assist competent authorities (NCAs) in their review of risk factors included in a prospectus, draft guidelines have been prepared. These draft guidelines are aimed to provide NCAs with a means of ensuring that disclosure of risk factor is material and specific to the issuer concerned. Furthermore, the guidelines can assist NCAs in ensuring that risk factor disclosure is prepared in a concise and succinct form.

These draft guidelines are directly addressed to NCAs. However, it is expected that financial market participants will, at all times, be aware of their obligations enshrined in Article 16 of the PR when preparing a prospectus for submission to an NCA.

Deadline for feedback

Stakeholders are invited to provide feedback on this proposal until 5th October 2018. Feedback is to be provided to ESMA through the following links:

- consultation on the draft technical advice on minimum information content for prospectus exemption: <https://www.esma.europa.eu/press-news/consultations/consultation-draft-technical-advice-minimum-information-content-prospectus>
- Consultation On Draft Guidelines On Risk Factors Under The Prospectus Regulation: https://www.esma.europa.eu/press-news/consultations/consultation-draft-guidelines-risk-factors-under-prospectus-regulation#registration-form_consultation

ESMA, on the basis of the responses received to its consultation papers, will deliver the technical advice to the European Commission and publish the final reports by 31st March 2019.

Should you have any queries relating to the above please contact the Authority on CapitalMarkets@mfsa.com.mt.

Communications Unit
Malta Financial Services Authority
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