BETTER FINANCE
The European Federation of Investors and Financial Services Users
Fédération Européenne des Épargnants et Usagers des Services Financiers

BETTER FINANCE Responds to

ESMA Consultation - Update to the Guidelines on Disclosure Requirements Under the Prospectus Regulation

09 November 2026

General statement

BETTER FINANCE welcomes ESMA's efforts to update and simplify the Guidelines on prospectus disclosure requirements following the adoption of the Listing Act. More generally, we note with concerns that the European Commission's broader simplification agenda may lead to the deprioritisation of important technical standards, to the detriment of other associated disclosure. We therefore encourage ESMA to raise such gaps with the Commission and, at least, address them through its Guidelines updates wherever possible.

As outlined during the Listing Act legislative review, BETTER FINANCE support the standardisation and simplification of prospectuses, particularly to facilitate access to public capital markets for SMEs while harmonising supervisory practices. But we stress that revitalising EU capital markets requires much greater participation from individual investors, whose confidence depends on high-transparency standards, accessible information and robust investor protection. For this, prospectuses, and particularly their summaries, must become genuinely investor friendly. With these updates, we call for ESMA to focus the clear, relevant and comparable information needed, rather relying on excessive removal or cross-referencing thereof, while minimising legalistic jargon. We deem that the goal over pinning simplification must both quality and consistency of financial information, be it on key profit forecasts metrics, meaningful risk disclosures and alongside applicable sustainability-related information.

Moreover, investor protection must also extend to corporate accountability and shareholder rights. This is why we stress the importance of transparency on related-party transactions and call for

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greater clarity on differences between share classes, in light of the accompanying multiple-voting-rights framework for MTFs. Across the EU, harmonised information must reach the investor to mitigate asymmetries between investors and market participants while effort should prevent further fragmentation of cross-border (issuance) market practices. Against this backdrop, we broadly support ESMA's proposals within the remit of its Level 3 Guidelines, which we believe should reinforce the key principles established at Level 1, while recalling the importance of relevant Level 2 provisions for regulatory consistency. The Guidelines should also consider related investor-protection issues, as we further caution that the simplification agenda should not lead to the deprioritisation of key technical standards, as envisaged by the European Commission, which could bring much-needed clarity to retail investors and market participants alike. We thereby provide targeted comments and suggestions for clarification to ensure effective disclosure and investor protection.

Keywords: Prospectus Regulation; Disclosure Requirements; Investor Protection; Financial Transparency; Shareholder Rights.

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About BETTER FINANCE

BETTER FINANCE – the European federation representing individual savers, investors and financial services users – is dedicated to promoting transparency, fairness and accountability, ensuring that Europe's financial system serves the real economy and the best interests of its citizens. Comprising around 40 member organisations across 25 countries, we represent millions of individual investors and other users of financial services across Europe and beyond, with EU support since 2012. Through our network, research-based advocacy, participation in EU advisory groups and campaigns, we promote independent financial education, unbiased investor information and fair access to financial markets, while advocating for stronger investor protection, effective supervision and better outcomes for consumers, placing citizens at the heart of financial decision-making.

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Questions and answers

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.

BETTER FINANCE understands ESMAs deletion of the said Guidelines whose disclosure requirements have been removed in Level 1 text of the Prospectus Regulation following the Listing Act changes, and we recognise the lack of legal basis to maintain them. Nevertheless, removal of specific disclosure requirements should not result omission of materially relevant information enabling proper assessment of an issuer. We find that targeted information concerning financial resources, indebtedness, liquidity, changes in capital structure or material ownership arrangements may remain relevant to understanding the financial position, but also the prospects, of an issuer. For clarity, we encourage ESMA to explain how the two new Guidelines on management reports must serve to sufficiently preserve those previously covered by the deleted requirements, notably on capital resources, indebtedness and ownership structures. For the new guidelines to fully address potential information gaps, we would suggest clarifying, through practical illustrative examples in the introductory guidance, that these deletions do not affect the overarching requirement under Article 6(1) of the Prospectus Regulation to disclose material information in a clear and easy to understand way, which is necessary for an informed investment assessment, taking account of the applicable prospectus regime.

Q.2 Do you agree with ESMA's proposal for Guideline [1]? If not, what improvements would you suggest.

BETTER FINANCE supports Guideline [1], insofar its aims at ensuring consistency between management reports, historical financial information and relevant incorporation within the prospectus. While recognising the role of the Transparency and Accounting Directives, incorporation reference should not, however, leave investors the sole responsible for reconciling any inconsistent or outdated information across several documents. We therefore suggest ESMA strengthening Guideline [1] itself by requiring issuers to clearly identify the most recent and relevant information in the prospectus in a clear manner, and proactively highlight and explain where material discrepancies may arise over time and, where necessary to ensure consistency and avoid mis-leading information, reconcile financial figures or performance indicators.

Likewise, we stress that material changes in share capital, major shareholdings or ownership structures since the incorporated reports should remain prominently disclosed in the prospectus, particularly where they affect control, dilution or voting rights. Material inconsistencies between sustainability-related disclosures and financial information should also be clearly explained where relevant to investors' assessment.

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More generally, where information is time-sensitive or may become outdated, the prospectus should clearly indicate this and, where possible, direct investors to where subsequent updates can be found. We would welcome further practical examples from ESMA to help those preparing prospectuses identify information likely to require updating and ensure that material changes and cross-references remain prominent and easy for investors to follow. Such cross-referencing should complement, rather than replace, the obligation to ensure that information is accurate, current and consistent at the time of prospectus approval, and to publish a supplement where required under Article 23 of the Prospectus Regulation.

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?

BETTER FINANCE acknowledges that exceptional circumstances may make it impracticable to achieve full consistency between the prospectus and previously published management reports. Such situations could arise where historical financial information was prepared under a different accounting framework and sufficient underlying data are unavailable to permit reliable reconciliation, despite reasonable efforts. However, the impracticability exception should remain narrowly interpreted and must not become an alternative to updating or explaining material information. The passage of time, differences in presentation or ordinary changes in an issuer's circumstances should not, in themselves, justify leaving material discrepancies unexplained.

We therefore support ESMA's proposed reasonable-efforts approach under IAS 8, while recommending that Guideline [1] explicitly require those responsible for the prospectus to document their efforts to achieve consistency and clearly explain any unresolved material discrepancies and their implications for investors. Even where reconciliation is genuinely impracticable, proactive disclosure should mitigate investor confusion by identifying the affected information, its date and where more recent information can be found through prominent cross-references. These safeguards must not substitute for the disclosure of material information under Article 6(1) or applicable supplementation requirements under Article 23.

Finally, impracticability and lack of relevance should not be treated as interchangeable grounds for an exception. Impracticability requires demonstrating that reconciliation cannot reasonably be achieved; perceived irrelevance should not justify leaving material inconsistencies unexplained. We therefore recommend aligning the wording of Guideline [1] with its narrower reasonable-efforts test and providing further practical examples of qualifying circumstances and expected disclosures.

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

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BETTER FINANCE supports Guideline [2], ensuring that issuers not required to prepare a management report insofar it discloses the material information necessary for an informed investment decision. Issuers should not be required to produce an entirely new management report solely for prospectus aims, only if equivalent material information is available to investors and identifiable as such. We raise attention to the fact that proportionality should however not result in material information gaps between categories of issuers. Guideline [2] could therefore place greater emphasis on the *substance*, *comparability* and especially *accessibility* of information, rather than the existence or format of particular reporting documents. Where material to investors' assessment under Article 6(1) or Article 15a(2), this should notably cover the issuer's business model, financial performance, material uncertainties, prospects and significant developments affecting its financial position. This would preserve effective investor protection and essential information called for, while respecting the simplified disclosure regimes established by the Listing Act.

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?

In the principle laid-out, BETTER FINANCE strongly supports ESMA's approach, provided that a level playing field for issuers should also tend to empower comparable information for investors. Navigating different accounting and reporting frameworks can be complex for retail investors and any mitigation of burden is welcome. Where third-country reporting documents are used, we recommend that Guideline [2] require a clear explanations of material differences are present in terms of accounting standards, reporting periods or disclosure coverage, including the information necessary to bridge those gaps. Whilst equivalent investor information should not necessarily require identical reporting documents, neither should different reporting regimes result in weaker transparency, especially if uninformed. To support cross-border investment, we also call for consistent supervisory scrutiny, including the effective use of competent authorities' powers to request clarifications or additional material disclosures where gaps are identified, while avoiding disproportionate reporting obligations or unnecessary duplication.

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 rationale supporting your proposal.

BETTER FINANCE has previously called to ensure clear and standardised financial presentations, especially by means of appropriate safeguards against potentially promotional or misleading (graphical) information, where forecast can be a means to generate over-statements, while reducing comprehensability. Therefore, we support the incorporating of ESMA's existing Q&A on profit forecasts into Guidelines (3]-[6] and agrees with its *substance-over-form* approach. Retail investors should be able to clearly understand profitability targets and forward-

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looking financial indicators, as these can significantly influence their expectations and investment assessments, irrespective of how issuers label them. Generic disclaimers should therefore not allow issuers to circumvent applicable profit-forecast requirements.

We would nevertheless encourage ESMA to strengthen Guideline [6] by requiring profit forecasts, including those implied by financial indicators or 'targets', to be prominently identifiable and clearly distinguishable from historical results, general trends and business objectives. Relevant assumptions, financial periods and material uncertainties should be readily identifiable alongside forecasts, while adjusted performance measures should be sufficiently explained/highlighted.

Further practical examples would help, particularly where forecasts can be inferred from information spread across different sections or presented graphically. In the latter case, projected and historical performance should be clearly distinguished to avoid misleading impressions of certainty. Ultimately, this would promote clear, investor-friendly disclosures rather than additional generic disclaimers, without introducing unnecessary reporting obligations.

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

BETTER FINANCE supports retaining Guidelines [7]-[10], particularly their requirements for due diligence, reliability, comparability and non-misleading profit forecasts. These safeguards are deemed essential for individual investors to distinguish substantiated financial projections from potentially optimistic performance expectations. As stressed under Q6, we again emphasise that forecasts should not only be clearly identifiable but also sufficiently explained and verifiable against (misleading) over-statements. We therefore suggest ESMA to clarify how issuers should substantiate their forecasting methodology, material assumptions and uncertainties, particularly where projections rely on adjusted performance measures or depart significantly from historical results.

As regards EU Follow-on and EU Growth issuance prospectuses, we welcome ESMA's intention to preserve meaningful disclosure where profit forecasts are published for the first time. However, since Guidelines [7]–[10] do not formally apply to these simplified regimes, ESMA should clarify the expected disclosures and their legal basis, drawing on comparable disclosure standards under other regimes where relevant. This should ensure adequate and comparable information for investors without creating legal uncertainty or indirectly imposing requirements that do not apply to these prospectuses.

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.

BETTER FINANCE broadly agrees with ESMA's direction in deleting Guideline 15 concerning the bridge approach, given the reduction in historical financial

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information requirements introduced by the Listing Act, de facto rendering guidance designed for three-year reporting no longer appropriate.

However, we stress that shorter reporting periods should not come at the expense of investors' ability to assess financial performance over time. While Guidelines [11]-[13] preserve important requirements concerning restatements, audits and financial information, we encourage ESMA to clarify that material changes in accounting frameworks or presentation methods should be accompanied by concise explanations of their impact on comparability. What is key is that, investors should, in particular, be able to distinguish genuine changes in financial performance from changes arising primarily from accounting methods (all the more if fewer historical periods are available). ESMA should also assess the use -in context - of clear cross-references to previously published financial information, as this should also facilitate longer-term assessments. Those adaptation elements could reinforce Article 6(1) of the Prospectus Regulation without reinstating reporting periods removed by the legislation.

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

BETTER FINANCE understands the rationale behind ESMA's proposal to delete Guideline 41 and introduce updated guidance on related-party transactions, removing provisions that duplicate or exceed the specific disclosure requirements under Commission Delegated Regulation (EU) 2019/980.

However, we draw ESMA's attention to the significant conflicts of interest and risks that related-party transactions can pose to minority shareholders, particularly where controlling shareholders, management or affiliated entities are involved.

We regret the removal of the explicit reference to assets and liabilities, as certain transactions may have limited effects on turnover but significant implications for the issuer's financial position or risks. While cannot call here for reinstating systematic disclosure requirements, we encourage ESMA to ensure in Guideline [35], for example and its explanatory guidance, that such financial implications should remain disclosed – whenever of material impact (in line with Article 6(1) of the Prospectus Regulation). Practical examples, such as related-party loans, guarantees or asset transfers, could help prevent such disclosure gaps. See below.

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

BETTER FINANCE welcomes Guideline [35], as mitigation and its clarification of related-party transactions and the reference to Article 9c of the Shareholder Rights Directive (SRD II). Supplementing our comments under Q9 on material financial implications, we stress that investor protection should extend beyond financial transparency to corporate accountability and the protection of minority shareholders.

We therefore recommend strengthening Guideline [35] to clarify that disclosures on material related-party transactions should also enable investors to assess the

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safeguards against conflicts of interest in a clear manner. Where applicable, the prospectus should identify the related party and nature of the relationship, the material terms and value of the transaction, whether relevant approval procedures were followed or an exemption applied, and the safeguards protecting shareholders who are not related parties. Any fairness assessments prepared under the applicable framework should also be readily identifiable. Article 9c of SRD II seeks to enable shareholders to assess whether transactions are fair and reasonable, including from the perspective of minority shareholders. Guideline [35] should make this objective more explicit: investors should understand not merely whether a transaction was approved, but how potential conflicts were addressed and which safeguards applied, including where exemptions were invoked. Supplementing our concerns under Q9, we would welcome practical examples and clear cross-references to existing SRD II disclosures, ensuring that material financial implications and governance safeguards can be assessed together.

On a related note, BETTER FINANCE recalls the importance of transparency regarding differences in voting rights between share classes and regrets the Commission's deprioritisation of the RTS under Article 5(5) of Directive (EU) 2024/2810, intended to ensure harmonised identification of multiple-vote share (MVS) structures across EU markets. As a first step, the current Prospectus Guidelines should call for a prominent, informative warning in both the prospectus and its summary regarding differentiated voting rights between share classes, ensuring that this information is not buried in complex legal disclosures. We further call on ESMA and the European Commission to prioritise the RTS, establishing a harmonised, recognisable marker in stock names, as envisaged by Recital 18, and ensuring its application by market operators across the EU. Further clarification under MiFID II's client-information requirements may also be warranted to ensure that such markers reach retail investors through investment platforms, alongside accessible explanations of differences between economic ownership and voting control.

Q11. Do you 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.

BETTER FINANCE supports ESMA's proposal to consolidate the Guidelines on risk factors with the Prospectus Disclosure Guidelines, provided that existing standards and supervisory expectations are fully preserved.

For retail investors, risk disclosures should focus on genuinely material, issuer-specific risks rather than lengthy ‘generic warnings or liability-oriented disclaimers / legal jargon. In fact, excessive risk disclosures can obscure the most significant concerns for individual investors. This is why we encourage ESMA to ensure that the consolidated Guidelines continue to require risks to be actual and specific, material and corroborated by other prospectus information (as envisaged under Article 16). They should also promote clear explanations of how material risks may affect the issuer or securities and be consistent financials, notably on liquidity,

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working capital and material uncertainties of the exposure of the issuer to its sector.

ESMA should confirm that such consolidation entails no unintended substantive changes or weakening of these principles but seize the opportunity to bring relevance and clarify under simplified prospectus regimes, that is, fewer, clearer and more relevant risk disclosures – rather than solely aiming shorter prospectuses.

On a separate note, regarding Guideline [46], we also welcome the existing clarification that regulatory supervision of an investment manager must not imply endorsement, approval or guarantee of said investment. This safeguard could feed directly into Guideline [46], rather than leaving it solely in the accompanying explanatory text, in order to prevent misleading expectations or varied practices.

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