

EU Listing Act: prospectus and market abuse regimes

Following publication of the European Parliament's ECON Committee [14 June draft report](#) (containing amendments 1 to 110) and [13 July further individual MEP amendments](#) (containing amendments 111 to 338) on the European Commission's (EC's) [proposed Listing Act Regulation](#) (LAR), ICMA provided informal feedback to several MEPs.

Regarding the draft report, ICMA welcomed several amendments that seem to help address some prior ICMA concerns with the EC proposals, notably:

- (a) restricting the proposed widening of the "40%" and "18-month" secondary issuance exemption – noting the limitation of the 40% threshold to 30% only appears in Recital 11 and not in the actual operative provisions; and
- (b) deleting the proposed mandatory incorporation by reference as well as the proposed (equity) prospectus length cap.

Beyond some amendments diverging from [ICMA's prior comments](#) on the EC proposals, ICMA also noted it was distinctly trying to understand three other suggested amendments:

- (a) changing "working day" to "business day" to align with relevant NCA open days and explicitly include Saturdays;
- (b) requiring proportions on taxonomy alignment and on coal/oil/gas in *non-follow-on/growth* prospectus summaries, which seems to be suggested-even for instruments that are not held out as accounting for/pursuing sustainability goals (rather than aligning any requirements for sustainability disclosure in the summary with sustainability disclosure requirements in the prospectus); and
- (c) Corporate Sustainability Reporting Directive (CSRD) consistency and requiring coordination with the EU Green Bond Standard – it being important to avoid burdening issuers with overlapping disclosure requirements and bearing in mind other disclosure requirements outside of the Prospectus Regulation (such as the CSRD) will ensure availability of this information to investors (not all of this information need/should be included directly within a prospectus itself).

Regarding the further individual MEP amendments, ICMA further noted:

- (a) *PR/ESG disclosure*: comments seemingly looking to pre-empt detailed sustainability focus scheduled for later subsidiary technical work (given the significant volume of new corporate ESG disclosure requirements still coming into force at EU or other national or regional levels, it should be left to the technical process to

properly review what corporate ESG disclosures be reflected in the prospectus regime);

- (b) *PR/fungible issuance exemption ceilings*: comments suggesting ceilings between 25% and 50%;
- (c) *PR/risk factor ranking*: comment that the legacy requirement for risk factor ranking "comes with a high degree of uncertainty", which is consistent with ICMA's stated views;
- (d) *PR/mandatory presentation requirements and page limits*: comment that any standardisation follow "international market practices", which ICMA agrees with;
- (e) *PR/alleviation of supplement "new security type" content restriction*: comment that supplements be allowed to introduce a new type of security where "required by legal necessities", which ICMA agrees with.
- (f) *PR/mandatory incorporation by reference*: comments that incorporation by reference should not be mandated, which is consistent with ICMA's stated views.
- (g) *PR/future incorporation by reference (into base prospectuses)*: comment that (in the absence of a supplement) "updated financial information is not part of the prospectus and the prospectus' liability regime does not apply", which ICMA considers to be technically incorrect; and
- (h) *MAR/sounding as a safe harbour*: comment that the sounding regime be compulsory rather than a safe harbour, which counters ICMA's stated views.

ICMA will continue monitor these Parliament deliberations (the remaining piece ahead of later inter-institutional dialogue) for any significant new developments (and seek to engage accordingly).



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