



**KARATZAS  
& PARTNERS**

EU Bulletin

## **EU Law Bulletin #5**

### **Recent developments in capital markets and banking**

#### **1. ESMA publishes its final guidelines on disclosure requirements under the Prospectus Regulation.**

ESMA has published its final report providing guidance to market participants on disclosure requirements under Regulation (EU) 2017/1129 (the “Prospectus Regulation”). The aim of these guidelines is to ensure the application of uniform standards for the disclosure of financial and non-financial information in prospectuses, provided in Commission Delegated Regulation 980/2019.

The guidelines update and replace the CESR recommendations, originally adopted by ESMA’s predecessor in 2005, reflecting the repeal of the Prospectus Directive and the new comply-or-explain mechanism under the Prospectus Regulation. Key amendments refer to sections Operation & Finance Review (OFR), Profit forecast, Pro forma information and Working Capital. For more information, please refer to the link below.<sup>1</sup>

#### **2. ESMA renews its decision requiring net short position holders to report positions of 0.1% and above**

In order to combat high volatility in European equity markets due the COVID-19 pandemic, ESMA required natural or legal persons with net short positions in relation to the issued share capital of companies whose shares are admitted to trading on a regulated market to notify the competent authorities details of any such position reaching, exceeding or falling below 0.1% of the issued share capital<sup>2</sup>.

<sup>1</sup> <https://www.esma.europa.eu/press-news/esma-news/esma-promotes-consistent-application-prospectus-disclosure-requirements>

<sup>2</sup> [https://eur-lex.europa.eu/legal-content/EN/TXT/PDF/?uri=CELEX:32020X0415\(01\)&from=EN](https://eur-lex.europa.eu/legal-content/EN/TXT/PDF/?uri=CELEX:32020X0415(01)&from=EN)

In its decision dated 16 September 2020, ESMA has renewed for the second time<sup>3</sup> the application of this measure for a period of three months, commencing from 18 September 2020<sup>4</sup>, in order to assist national competent authorities in mitigating signs of “exacerbated market stress”.

### **3. EBA phases out its Guidelines on legislative and non-legislative loan repayments moratoria**

In light of the adverse effects of the COVID-19 pandemic in European markets, the European Banking Authority (EBA) published its Guidelines on legislative and non-legislative moratoria on loan repayments on 02 April 2020, pursuant to Article 16 of Regulation (EU) No 1093/2010 (EBA Founding Regulation). The Guidelines clarified the requirements for public and private moratoria, which if fulfilled, would help avoid the classification of exposures under the definition of forbearance or as defaulted under distressed restructuring.

Following an announcement for the extension of measures until 30 September 2020, the EBA confirmed in its statement<sup>5</sup> dated 21 September 2020, the expiry of exceptional measures and the revert to the usual prudential framework for the classification of loans on a case-by-case basis. Arrangements with lenders granted prior to 30 September 2020 will continue to apply, in order to avoid reclassification of loans occurred under the previous scheme.

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<sup>3</sup> <https://www.esma.europa.eu/press-news/esma-news/esma-renews-its-decision-requiring-net-short-position-holders-report-positions>

<sup>4</sup> <https://www.esma.europa.eu/press-news/esma-news/esma-renews-its-decision-requiring-net-short-position-holders-report-position-0>

<sup>5</sup> <https://eba.europa.eu/eba-phases-out-its-guidelines-legislative-and-non-legislative-loan-repayments-moratoria>