



Banc Ceannais na hÉireann
Central Bank of Ireland

Eurosystem

Prospectus Regulatory Framework

Questions & Answers
2nd Edition

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Purpose of this document

This document sets out answers to queries which may arise in relation to the Prospectus Regulation, the Irish Regulations and the Prospectus Rules. It updates and replaces the first edition of the “Prospectus Regulatory Framework Questions and Answers” document dated 4 August 2017 previously published by the Central Bank. It is published in order to assist in limiting uncertainty and is not relevant to assessing compliance with regulatory requirements. In addition to being published in the Central Bank’s ‘Markets Update’ it will be posted on the Central Bank website and will be updated there occasionally as required. You should check the website from time to time in relation to any matter of importance to you to see if the position on a query may have altered. The Central Bank reserves the right to alter its approach to any matter covered in this Q&A at any time.

In this document

- “CDR (EU) 2019/980” refers to Commission Delegated Regulation (EU) 2019/980 of 14 March 2019 supplementing Regulation (EU) 2017/1129 of the European Parliament and of the Council as regards the format, content, scrutiny and approval of the prospectus to be published when securities are offered to the public or admitted to trading on a regulated market, and repealing Commission Regulation (EC) No 809/2004, as amended.
- “CDR (EU) 2019/979” refers to Commission Delegated Regulation (EU) 2019/979 of 14 March 2019 supplementing Regulation (EU) 2017/1129 of the European Parliament and of the Council with regard to regulatory technical standards on key financial information in the summary of a prospectus, the publication and classification of prospectuses, advertisements for securities, supplements to a prospectus, and the notification

portal, and repealing Commission Delegated Regulation (EU) No 382/2014 and Commission Delegated Regulation (EU) 2016/301, as amended.

- “Central Bank Guidance on Prospectus Regulatory Framework” refers to the Central Bank’s Guidance issued in accordance with the provisions of Section 1363(8) of the Companies Act 2014 and available on the Central Bank website.
- “ESEF” refers to European Single Electronic Format.
- “ESEF Regulation” refers to Commission Delegated Regulation (EU) 2018/815 of 17 December 2018 supplementing Directive 2004/109/EC of the European Parliament and of the Council with regard to regulatory technical standards on the specification of a single electronic reporting format, as amended.
- “ESMA” refers to the European Securities and Markets Authority
- “ESMA Guidelines on Risk Factors” refers to the Guidelines on Risk Factors under the Prospectus Regulation issued by ESMA, ESMA31-62-1293.
- “ESMA Q&A on Prospectuses” refers to the document entitled “Questions and Answers on the Prospectus Regulation” published by ESMA and available from the ESMA website.
- “Irish Regulations” refers to European Union (Prospectus) Regulations 2019 (S.I. No. 380 of 2019), as amended.
- “Prospectus Regulation” refers to 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, as amended.
- “Prospectus Rules” refers to Part 4 of the Central Bank (Investment Market Conduct) Rules 2019 (S.I. No. 366 of 2019) issued by the Central Bank under Section 1363 of the Companies Act 2014.
- “Relevant person” refers to the issuer, offeror or person seeking admission to trading, as the case may be.

Introduction

ID 1001

Q. Who is the competent authority in Ireland for the purposes of the Irish Regulations?

A. The Central Bank. Information regarding the Irish Regulations and related matters are available on the Central Bank's website [here](#).

ID 1002

Q. What do I do if I am uncertain about what the Prospectus Regulation, the Irish Regulations or the Prospectus Rules require me to do?

A. The first step is to seek formal legal advice. It is not the policy of the Central Bank to provide legal advice on matters arising pursuant to the Irish Regulations, the Prospectus Rules, or the Prospectus Regulation. It is a matter for any person who may fall within the scope of the Irish Regulations, the Prospectus Rules, or the Prospectus Regulation to seek legal advice regarding their application or otherwise in the circumstances.

It is acknowledged, however, that even with the benefit of legal advice, a relevant person may be uncertain how to proceed during the prospectus approval process. For this reason, the Central Bank will enter into a process of dialogue with relevant persons and/or their appointed agents prior to the first submission of a prospectus for approval. The Central Bank does this in the public interest to facilitate the efficiency of the market.

Approval of a Prospectus

ID 1003

Q. When is the Central Bank the competent authority for the approval of a prospectus?

A. The Central Bank is the competent authority for the approval of a prospectus where Ireland is the home Member State, as defined in Article 2(m) of the Prospectus Regulation.

ID 1004

Q. If I have a query about the prospectus approval process, whom should I contact?

A. You can contact prospectus@centralbank.ie.

ID 1005

Q. Has the Central Bank issued rules and / or guidance on the process for the approval of a prospectus?

A. Yes. The Prospectus Rules set out rules and guidance in relation to an application to the Central Bank for approval of a prospectus. Rules 40, 41 and 42 specify the text of certain statements which must be included in the prospectus (where they are applicable).

Section 3 of the Central Bank Guidance on Prospectus Regulatory Framework addresses the submission process from the first draft until approval of the prospectus document.

ID 1006

Q. What is the procedure for submitting a prospectus for approval?

A. A relevant person seeking approval of a prospectus is required to submit a draft form prospectus to the Central Bank for scrutiny in accordance with the procedures set out in Section 3 of the Central Bank Guidance on Prospectus Regulatory Framework. In order to avoid any delay in the approval of a prospectus, a relevant person should proactively raise all issues with the Central Bank at an early stage in the approval process and should address all issues/queries raised by the Central Bank during the approval process in a comprehensive and timely manner.

ID 1007

Q. In what order should information appear in a prospectus?

A. Article 24 (prospectus), Article 25 (base prospectus) and Article 32 (EU growth prospectus) of CDR (EU) 2019/980 set out the order in which certain information should appear in a prospectus. However, it is permitted to include a brief cover note that has general information about the issuer and the securities before the items prescribed in Articles 24 and 25 are disclosed.

Every prospectus must include a “Risk Factors” section. This section must set out information relating to all material risk factors specific to the issuer and the securities, in accordance with Article 16 of the Prospectus Regulation.

Further information on order of information is available from the ESMA Q&A on Prospectuses. Please refer to the questions and answers entitled “Order of the information in the prospectus”.

ID 1008

Q. Is it possible to publish a prospectus that is part of a larger document which includes information about securities that are not subject to a requirement to publish a prospectus?

A. Yes. The Central Bank will consider approving such a prospectus, provided that:

- particularly where the denomination of the securities is below €100,000, the comprehensibility of the prospectus is not adversely effected; and
- it is clear from the document which parts constitute a prospectus that has been approved by the Central Bank and which parts do not.

Rule 40 of the Prospectus Rules specifies text which must be included in the prospectus in these circumstances.

ID 1009

Q. Can I omit information from a prospectus?

A. You may only omit required information from a prospectus if the Central Bank has authorised the omission of that information in accordance with Article 18 of the Prospectus Regulation. If you wish the Central Bank to authorise the omission of certain required information you must submit a request in writing to the Central Bank in accordance with Rule 48 of the Prospectus Rules.

In order to avoid any delays in the approval of a prospectus, you should submit an omission of information request at the earliest available opportunity and, if possible, in advance of the initial submission of a prospectus for review. At the latest, you should submit the omission request with the first draft of the prospectus submitted to the Central Bank.

ID 1010

[Deleted - no longer relevant]

ID 1037

Q. Can I file documents to be incorporated by reference in a format other than pdf?

A. Yes. The ESEF Regulation introduced a single electronic reporting format for the annual financial reports of issuers with securities admitted to trading on EU regulated markets. It applies to annual financial reports containing financial statements for financial years beginning on or after 1 January 2021.

The Prospectus Rules generally require that documents to be incorporated in a prospectus by reference be submitted in portable document format (pdf). However, annual financial reports required to be prepared in the format prescribed by the ESEF Regulation may also be incorporated by reference in a prospectus in that format and submitted to the Central Bank for that purpose.

ID 1011

Q. How do I go about having the approval of my prospectus transferred to a competent authority in another Member State when Ireland is my home Member State?

A. You should refer to Section 8 of the Central Bank Guidance on Prospectus Regulatory Framework.

Ireland will remain as the home Member State under the Irish Regulations notwithstanding any agreement to transfer the approval of a prospectus to the competent authority of another Member State. Therefore, any transfer of approval will relate only to the prospectus which was the subject of the request and not to any other prospectus the relevant person may prepare in the future.

ID 1012

Q. When must I produce a supplement to a prospectus?

A. It is the responsibility of a relevant person to decide what it considers to be a significant new factor, material mistake or inaccuracy which would require publication of a supplement in accordance with Article 23 of the Prospectus Regulation. Also, Article 18 of CDR (EU) 2019/979 sets out certain circumstances when publication of a supplement is mandatory.

Further information on the circumstances where publication of a supplement is required is available from the ESMA Q&A on Prospectuses. Please refer to the questions and answers 8.1 – 8.5.

ID 1013

Q. When must I produce a supplement to a prospectus summary?

A. Where the summary contains information which corresponds to the information being supplemented in the body of the prospectus, the summary must also be supplemented in accordance with Article 27 of CDR (EU) 2019/980 or Article 34 of CDR (EU) 2019/980 for the EU Growth Prospectus, as applicable.

ID 1014

Q. What are the acceptable languages for prospectuses submitted for approval to the Central Bank?

A. A prospectus may be drawn up in Irish or English. A relevant person may choose to include text in another language. In this case the relevant person must ensure that this text is accompanied by one of the statements specified in Rule 43 of the Prospectus Rules.

Publication

ID 1015

Q. Are prospectuses approved by the Central Bank published on the Central Bank website?

A. No. From 21 July 2019, the Central Bank of Ireland will only publish on its website a list of all prospectuses it has approved, including a hyperlink to a dedicated website section on which the prospectus is available provided by a relevant person. A relevant person must notify the Central Bank of the method of publication of the prospectus to be adopted for the purposes of complying with Article 21(2) and (3) of the Prospectus Regulation in accordance with the procedure set out in Rule 53 of the Prospectus Rules.

ID 1016

Q. Where can I find a list of the prospectuses that have been approved by the Central Bank?

A. From 21 July 2019, the Central Bank of Ireland publishes on its website a list of all prospectuses it has approved, including a hyperlink to a dedicated website section provided by a relevant person.

The list of approved prospectuses can be found on the Central Bank's website [here](#).

All prospectuses approved shall remain publicly available in electronic form for at least 10 years after their publication in accordance with Article 21 of the Prospectus Regulation. Note that the current list commences from 21 July 2019. Please refer to ID 1019 for publications prior to that date.

ID 1017

[Deleted - no longer relevant]

ID 1018

[Deleted - no longer relevant]

ID 1019

Q. I am looking for a prospectus which was approved before 21 July 2019. Will it be listed on the Central Bank's website?

A. No. As a new system came into effect in July 2019, the publications on the Central Bank's website date from 21 July 2019 onwards.

If you require a prospectus that was published prior to 21 July 2019, you should contact the relevant person directly. Alternatively, prospectuses may be available on the website of [Euronext Dublin](#).

Passporting to and from other Member States

ID 1020

[Deleted - no longer relevant]

ID 1038

Q. Has the Central Bank issued any rules or guidance on passporting a prospectus to a host Member State?

A. Yes. Detailed guidance on submitting a passport request is issued on the Central Bank’s website [here](#).

ID 1021

Q. My prospectus includes a summary. Which host Member States require a translation of the summary?

A. ESMA has published a guide entitled “[Languages accepted for scrutiny of the Prospectus and translation requirements for Summaries](#)”, which sets out the requirements for each Member State. This guide is available on the ESMA website.

Where a translation of the summary is required, you should ensure that it is an accurate translation of the summary contained in the approved prospectus. You should have regard to the question and answer entitled “*Quality of translations of passported prospectuses*” included in the ESMA Q&A on Prospectuses, also available on the ESMA website.

ID 1022

Q. Can I include a foreign language summary within the prospectus as part of a single PDF document?

A. Yes. A foreign language summary may be included in the prospectus or prepared as a separate document. This is subject to compliance with Rule 43 of the IMC Rules.

ID 1023

Q. When can the offer of securities to the public or admission to trading begin in a host Member State?

A. Notwithstanding that you have received confirmation that the Central Bank has sent a passport notification to a host Member State, you cannot assume that activity can commence in that Member State. You should seek legal advice to ensure that there are no additional national legal or regulatory requirements to be complied with in the host Member State.

ID 1024

Q. If a passport notification has been sent by the Central Bank to a host Member State(s) in accordance with Article 25 or 26 of the Prospectus Regulation, do I need to submit a passport request to the Central Bank in respect of any subsequent supplement to that prospectus?

A. Yes. The passporting section of the submission template needs to be completed for each approval submission regardless of document type where passporting is being sought. Once this has been completed, the Central Bank will automatically send a passport notification in respect of a supplement to a prospectus to a host Member State(s) where it has previously sent a passport notification in relation to the prospectus.

ID 1025

Q. Is a new or updated translation of the summary required where a passported prospectus is supplemented?

A. If the information to be supplemented affects the summary, an updated translation of the summary must be provided in accordance with Article 27.3 of the Prospectus Regulation.

ID 1026

Q. Where can I find a list of passport notifications from other Member States?

A. The list of all passport notifications received from other Member States since 21 July 2019 can be found on our website [here](#).

ID 1027

Q. Can I get a copy of a prospectus which has been passported from another Member State from the Central Bank's website?

A. No. Prospectuses passported to Ireland are not available on our website and the Central Bank cannot provide copies of such prospectuses.

However, ESMA has compiled a register of prospectuses approved based on notifications made to it by national competent authorities of Member States of the European Economic Area. This list is available on ESMA's Registers website . [here](#).

Alternatively, you could contact the relevant person directly to obtain a copy of the prospectus or consult the website of the competent authority of the relevant home Member State to find out how the prospectus is being made available.

Employee Share Schemes

ID 1028

[Deleted - no longer relevant]

Formal Notice

ID 1029

[Deleted - no longer relevant]

Exemption from publishing a Prospectus

ID 1030

Q. Has the Central Bank issued any rules or guidance in relation to exemptions from the obligations to publish a prospectus in the context of a merger or take-over?

A. Yes, in Part 7 of the Central Bank Guidance on Prospectus Regulatory Framework.

Article 1(4)(f) or (g), or Article 1(5)(e) or (f) of the Prospectus Regulation, in respect of an offer of securities to the public in the State or an admission of securities to trading on a regulated market in the State allows for an exemption from the obligation to publish a prospectus in the case of a takeover or merger.

Rule 55 of the Prospectus Rules requires a person who relies on such

exemption to file with the Central Bank the document that is to be made available to the public in accordance with that exemption.

ID 1031

Q. Do I need approval from the Central Bank to avail of an exemption from the obligation to publish a prospectus as set out in Regulation 3 of the Irish Regulations or Article 1(4) or 1(5) of the Prospectus Regulation?

A. No. You must be satisfied that you can avail of the exemption. This is without prejudice to providing document for mergers or takeovers as detailed in ID 1030. It is not the policy of the Central Bank to provide legal advice on matters arising pursuant to the Irish Regulations, the Prospectus Rules or the Prospectus Regulation. It is a matter for any person who may fall within the scope of the Irish Regulations, the Prospectus Rules or the Prospectus Regulation to seek legal advice regarding their application or otherwise in the circumstances. Please refer to Part 7 (Other Filings) of the Central Bank Guidance on Prospectus Regulatory Framework for additional requirements that apply when relying on an exemption referred to in Article 1(4)(f) or (g), or Article 1(5)(e) or (f) of the Prospectus Regulation.

The Central Bank expects that a relevant person maintains adequate and appropriate documentary records to support any decision to avail of an exemption, which will be available to the Central Bank on request in accordance with Rule 35 of the Prospectus Rules.

Securities already Admitted to Trading on a Regulated Market in another Member State

ID 1032

Q. I have a valid base prospectus which was approved within the last 12 months in another Member State. Existing securities issued off that base prospectus are admitted to trading on a regulated market in that Member State. How can I arrange for those securities to be admitted to trading on a regulated market in Ireland?

A. As the approval granted in the other Member State remains valid, it is open to you to request the relevant competent authority to submit a passport notification in respect of the base prospectus to the Central Bank.

The disclosure in the base prospectus must allow for the passporting of the securities into Ireland and for their admission to trading on a regulated market in Ireland. If not, a supplement to the prospectus is required in accordance with Article 18(1)(g) of CDR (EU) 2019/979.

You may also find it useful to refer to the question and answer entitled “More than one final terms for a specific issue of bonds” in the ESMA Q&A on Prospectuses which includes information on filing a replacement set of final terms where a supplement is required.

ID 1033

Q. I want to rely on the exemption from the obligation to publish a prospectus in Article 1(5)(j) of the Prospectus Regulation. Do I have to publish a summary where the securities that are to be admitted to trading in Ireland are non-equity securities having a denomination of at least €100,000?

A. Yes. Publication of a summary is a condition to availing of the exemption under Article 1(5)(j) of the Prospectus Regulation.

You are not obliged to publish a summary but, if you do not do so, you cannot rely on the exemption under Article 1(5)(j).

ID 1034

Q. I want to arrange for a number of different securities to be admitted to trading on a regulated market in Ireland without producing a prospectus, in reliance on the exemption under Article 1(5)(j) of the Prospectus Regulation. Will the Central Bank require me to publish a separate summary for each different security?

A. In general, you must publish a separate summary, which complies with the requirements of Article 7 of the Prospectus Regulation, for each security. However, a single summary may be produced for multiple securities in the circumstances and in accordance with the requirements set out in paragraph 3 under Article 8(9) of the

Prospectus Regulation. This is subject to the comprehensibility of such a single summary not being affected and to compliance with the limitations on the size of the summary set out in Article 7 of the Prospectus Regulation.

ID 1035

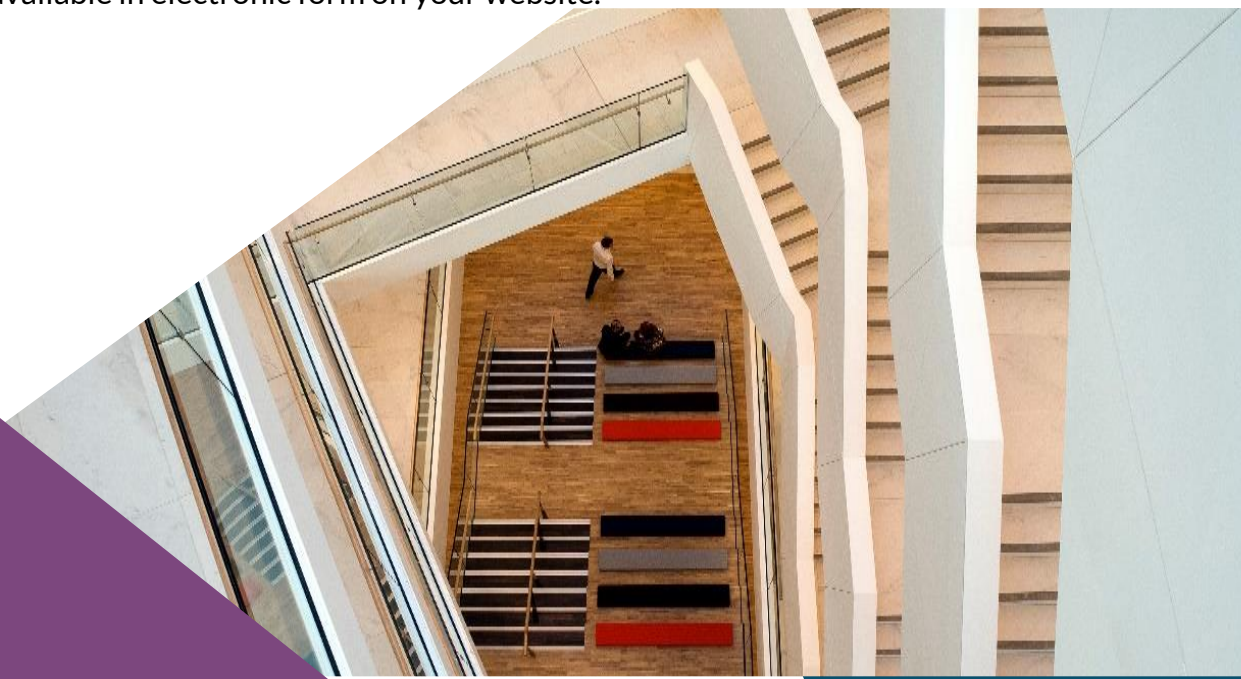
Q. I intend to rely on the exemption from the obligation to publish a prospectus in Article 1(5)(j) of the Prospectus Regulation. Will the summary, that has to be published by me in order to rely on that exemption, be reviewed by the Central Bank?

A. No. The Central Bank will not review a summary document prepared by an issuer seeking to rely on Article 1(5)(j) of the Prospectus Regulation. However, this is without prejudice to the capacity of the Central Bank to impose a sanction pursuant to Part 5 of the Irish Regulations where there is a contravention of prospectus law.

ID 1036

Q. I intend to rely on the exemption from the obligation to publish a prospectus in Article 1(5)(j) of the Prospectus Regulation. How must the summary, that has to be published by me in order to rely on that exemption, be made available to the public?

A. The summary, which must be published in Irish or English, must be made available to the public in the manner specified in Article 21 of the Prospectus Regulation. For example, the summary could be made openly available in electronic form on your website.



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