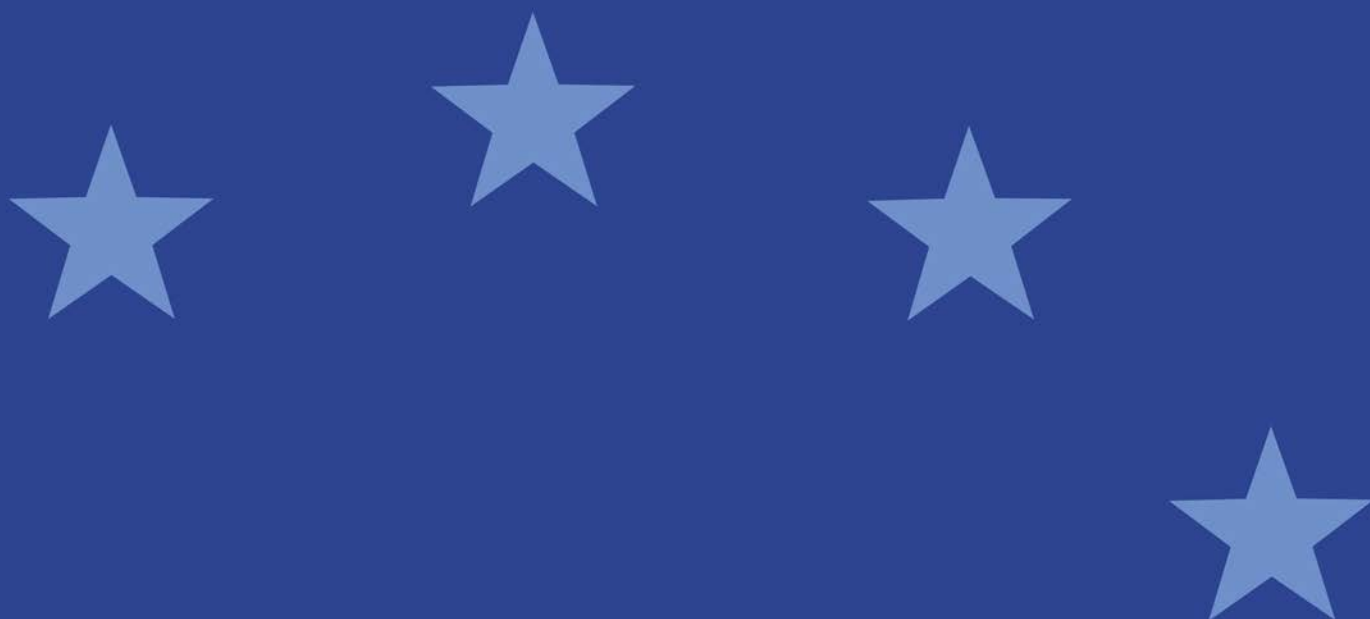


# Response form to Consultation Paper

**Draft Guidelines on disclosure requirements under the Prospectus Regulation**



## Responding to this paper

ESMA invites responses to the questions set out throughout its Consultation Paper on Draft Guidelines on disclosure requirements under the Prospectus Regulation (ESMA31-62-1239). Responses are most helpful if they:

- respond to the question stated;
- contain a clear rationale; and
- describe any alternatives ESMA should consider.

ESMA will consider all responses received by **4 October 2019**.

### Instructions

In order to facilitate analysis of responses to the Consultation Paper, respondents are requested to follow the below steps when preparing and submitting their response:

- Insert your responses to the questions in the Consultation Paper in the present response form.
- Please do not remove tags of the type <ESMA\_QUESTION\_CPG\_1>. Your response to each question has to be framed by the two tags corresponding to the question.
- If you do not wish to respond to a given question, please do not delete it but simply leave the text "TYPE YOUR TEXT HERE" between the tags.
- When you have drafted your response, name your response form according to the following convention: ESMA\_CPG\_nameofrespondent\_RESPONSEFORM. For example, for a respondent named ABCD, the response form would be entitled ESMA\_CPG\_ABCD\_RESPONSEFORM.
- Upload the form containing your responses, **in Word format**, to ESMA's website ([www.esma.europa.eu](http://www.esma.europa.eu) under the heading "Your input – Open consultations" → "Consultation on Draft Guidelines on disclosure requirements under the Prospectus Regulation").

### Publication of responses

All contributions received will be published following the close of the consultation, unless you request otherwise. **Please clearly indicate by ticking the appropriate checkbox on the website submission page if you do not wish for your contribution to be publicly disclosed.** A standard confidentiality statement in an email message will not be treated as a request for non-disclosure. A confidential response may be requested from us in accordance with ESMA's rules on access to documents. We may consult you if we receive such a request.

Any decision we make not to disclose the response is reviewable by ESMA's Board of Appeal and the European Ombudsman.

**Data protection**

Information on data protection can be found at [www.esma.europa.eu](http://www.esma.europa.eu) under the heading "Data protection".

**Who should read the Consultation Paper**

The Consultation Paper may be of particular interest to investors, issuers, including issuers already admitted to trading on a regulated market or on a multilateral trading facility, offerors or persons asking for admission to trading on a regulated market as well as to any market participant who is affected by the new Prospectus Regulation.

**General information about respondent**

Name of the company / organisation	Accountancy Europe
Activity	Audit/Legal/Individual
Are you representing an association?	<input checked="" type="checkbox"/>
Country / region	Europe

**Introduction**

***Please make your introductory comments below, if any:***

<ESMA\_COMMENT\_CPG\_1>

Accountancy Europe is happy to provide its input to ESMA's draft guidelines for prospectus disclosures. The guidelines will be essential in granting additional comfort for issuers, and will hopefully ensure that any differences between national competent authorities (NCAs) in the application of the Prospectus Regulation's provisions will be minimal.

<ESMA\_COMMENT\_CPG\_1>

## Questions

### *Operating and financial review*

- Q1** Do you agree with the choice to largely carry over the CESR recommendations on OFR? If not, could you please indicate what further guidance should be provided and the legal basis for such?

<ESMA\_QUESTION\_CPG\_1>

We call for more clarity on the term “recurring elements” which is introduced in Guideline 3. The same guidance also extends to assets and liabilities. Again, more clarity on how “recurring” (vs non-recurring) should be applied to assets and liabilities might be helpful.

Furthermore, the consultation states that the OFR should enable investors to assess future earnings cashflows. While in itself positive, we encourage the guidance to be even clearer in how this should be achieved and which types of cash flow items should be disclosed separately and how such disclosure should be made.

<ESMA\_QUESTION\_CPG\_1>

- Q2** Do you agree with the introduction of draft guideline 4 in order to provide further guidance on the use of the management report? Do you believe the inclusion of any separate non-financial report (when applicable) could materially increase the length of equity prospectuses? If so, please provide your reasoning and an alternative proposal.

<ESMA\_QUESTION\_CPG\_2>

We agree with the introduction of Guideline 4.

<ESMA\_QUESTION\_CPG\_2>

- Q3** Do you believe the application of draft guidelines 1, 2, 3 and 4 will impose additional costs on the persons responsible for the prospectus? If so, please provide evidence of the costs and – on a best-effort basis – quantify them.

<ESMA\_QUESTION\_CPG\_3>

TYPE YOUR TEXT HERE

<ESMA\_QUESTION\_CPG\_3>

### *Capital resources*

- Q4** Do you agree with the choice to largely carry over the CESR recommendations on capital resources? If not, could you please indicate what further guidance should be provided and the legal basis for such?

<ESMA\_QUESTION\_CPG\_4>

We agree to carry over the CESR recommendations. However, we propose more guidance for credit institutions where other measures, such as ratios between capital resources and capital requirements, are often used as performance indicators.

<ESMA\_QUESTION\_CPG\_4>

**Q5** Do you consider that the clarifications in these draft guidelines on how text provided elsewhere should be cross-referred to are useful?

<ESMA\_QUESTION\_CPG\_5>  
TYPE YOUR TEXT HERE  
<ESMA\_QUESTION\_CPG\_5>

**Q6** Do you believe the application of draft guidelines 5, 6, 7 and 8 will impose additional costs on the persons responsible for the prospectus? If so, please provide evidence of the costs and – on a best-effort basis – quantify them.

<ESMA\_QUESTION\_CPG\_6>  
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<ESMA\_QUESTION\_CPG\_6>

### ***Profit forecasts and estimates***

**Q7** Do you agree with the choice to largely carry over the CESR recommendation on profit forecasts and estimates? If not, could you please indicate what further guidance should be provided and the legal basis for such?

<ESMA\_QUESTION\_CPG\_7>  
Accountants are no longer required to report on forecasts, whereas the CESR recommendation were issued when this still was a requirement. Hence with that requirement removed, ESMA might need to reconsider the recommendations rather than carry over the guidance as such.

In addition, we would like to note the following:

- We suggest clarifying what ESMA believes is “reasonable” when discussing assumptions in forecasts. We caution strongly against using terms such as “valid” or “correct” in guideline 12 as these imply a level of “right vs wrong” that is rarely achievable.
- Paragraph 48 appears to propose to compare forecasts with historical information in the prospectus. Experience shows that investors, at a later stage, seek to compare forecasts with financial information presented subsequently in future reportable information. We note that, in particular with new accounting policies, a more “forward looking approach” may be more useful. With that in mind, the current texts of paragraph 44 and 45 may need to be amended as they appear to not permit unmodified statements or caveats etc notably when it comes to impacts of new accounting standards.
- We also read guidelines 10 and 11 as treating comparability differently; be it via “adjusted financial information” vs. “additional explanation”. We would question whether the requirement in paragraph 50 for an issuer to prepare restated historical financial information as a comparator to a forecast prepared on the basis of the accounting policies applicable to the year in question is excessive. Instead, we believe that it should be sufficient for investors to rely on the IAS 8 disclosures in the latest historical financial information addressing the impending adoption of new accounting standards.

<ESMA\_QUESTION\_CPG\_7>

**Q8** Do you believe the application of draft guidelines 9, 10, 11 and 12 will impose additional costs on the persons responsible for the prospectus? If so, please provide evidence of the costs and – on a best-effort basis – quantify them.

<ESMA\_QUESTION\_CPG\_8>

The preparation of restated historical financial information as required by paragraph 50 will impose additional costs on issuers both in their preparation and in any involvement of their auditors.

<ESMA\_QUESTION\_CPG\_8>

### ***Historical financial information***

**Q9** In relation to draft guideline 14, do you consider that it is beneficial to clarify the application of the bridge approach for prospectuses that include less than three years of financial information? If not, please elaborate on your reasoning and suggest an alternative approach.

<ESMA\_QUESTION\_CPG\_9>

TYPE YOUR TEXT HERE

<ESMA\_QUESTION\_CPG\_9>

**Q10** Do you agree with the guidance set out in draft guidelines 13, 14, 15, 16 and 17? If not, please explain your reasons and provide alternative suggestions.

<ESMA\_QUESTION\_CPG\_10>

We believe that the current guidance is not entirely clear as to when restated comparatives need to be audited. Paragraph 73 appears to conclude that only one period (the most recent) needs to be audited, whereas paragraph 67 covers both periods and 71 paragraph implies the same.

We would encourage more guidance on how, under Guideline 13, the restated financial statements should be “comparable” with the financial statements under the previous accounting framework. Would an equity reconciliation suffice for instance?

Our understanding is that Guideline 17 requires an issuer to prepare financial information for inclusion in a prospectus even where it has been required to publish that information in the past and will not be required to prepare and publish that information subsequently. If that is the case, we believe this may be a potentially onerous exercise that does not bring much value to investors.

<ESMA\_QUESTION\_CPG\_10>

**Q11** Do you consider that additional guidance is necessary as regards the restatement of historical financial information in the case of prospectuses that include less than three years of financial information? If so, please explain your view.

<ESMA\_QUESTION\_CPG\_11>

No. See the response to Q9 above.

<ESMA\_QUESTION\_CPG\_11>

**Q12** Do you believe the application of any of the draft guidelines 13, 14, 15, 16 and 17 will impose additional costs on the persons responsible for the prospectus? If so, please provide evidence of the costs and – on a best-effort basis – quantify them.

<ESMA\_QUESTION\_CPG\_12>

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<ESMA\_QUESTION\_CPG\_12>

### ***Pro forma information***

**Q13** Should draft guideline 18 include any other standard indicators of size? Have you ever used other indicators because the three indicators included in draft guideline 18 would produce anomalous results?

<ESMA\_QUESTION\_CPG\_13>

Paragraph 79 appears to acknowledge that results may be anomalous and that therefore other measures may be more appropriate. Therefore, there is no need for guideline 18 to include other measures.

<ESMA\_QUESTION\_CPG\_13>

**Q14** In draft guideline 18, do you agree that when an issuer is involved in several transactions which individually do not, but which collectively do, constitute a 25% variation to the issuer's size, pro forma information should be required unless it is disproportionately burdensome to produce it?

<ESMA\_QUESTION\_CPG\_14>

In our experience, "disproportionately burdensome" is a test that should be defined better as unlikely to be applied consistently. If pro forma information is considered to be important to investors, it should be mandatory. However, our view is that such pro forma information is not likely to be of significant benefit and therefore it should be left to the discretion of the persons responsible for the prospectus to decide whether to include such pro forma information.

<ESMA\_QUESTION\_CPG\_14>

**Q15** In draft guideline 18, do you agree that when an issuer is involved in several transactions of which only one constitutes a 25% variation to the issuer's size, pro forma information should be required for all the transactions unless it is disproportionately burdensome to produce it?

<ESMA\_QUESTION\_CPG\_15>

In our experience, "disproportionately burdensome" is a test that should be defined better as unlikely to be applied consistently. If pro forma information is considered to be important to investors, it should be mandatory. However, our view is that such pro forma information is not likely to be of significant benefit and therefore it should be left to the discretion of the persons responsible for the prospectus to decide whether to include such pro forma information.



<ESMA\_QUESTION\_CPG\_15>

**Q16** In draft guideline 25, do you agree that the accountant / auditor report should not be permitted to include an emphasis of matter?

<ESMA\_QUESTION\_CPG\_16>

We indeed believe that is the case.

<ESMA\_QUESTION\_CPG\_16>

**Q17** In relation to draft guidelines 19, 20, 21, 22, 23, 24 and 26 which largely carry over existing material, do you agree that this material should be carried over? If you do not, please specify which material is no longer relevant and explain why.

<ESMA\_QUESTION\_CPG\_17>

It should be clarified that where pro forma income statements are presented for more than one period, they should be presented on the basis that the transaction took place on the first day of the earliest period presented; hence the impact occurs once only and not, as may be read in paragraphs 87 and 88 in both periods if 2 such periods are presented.

Paragraph 96 appears to restrict interim information to either half yearly or quarterly information whereas we do not believe that the regulation does so. It may therefore be inappropriate for the guidance to seek to override the regulation. If our reading of paragraph 96 would not be correct, then paragraph 96 serves no purpose and should be deleted. Paragraph 99 appears to permit pro forma information to be presented for other interim periods.

Paragraph 100 just repeats item 1.1(b)(i) of Annex 20 and can be deleted.

Paragraph 109 – it is not clear why the word “generally” is included in the 4th line. We believe that adjustments that are dependent on future actions to be taken are not directly attributable to the transaction. Furthermore, it is incorrect to say that adjustment should not be made to reflect deferred or contingent consideration. Firstly, the two are very different and the issuer’s accounting policies will determine how deferred consideration should be reflected in the pro forma information. Secondly, contingent consideration is generally not dependant on future actions as it is far more likely to be dependent on future trading. Accordingly, the application of the issuer’s accounting policies will inform how an estimate of any contingent consideration should be reflected in the pro forma information.

Paragraph 111 says that where there is an acquisition, which requires pro forma information to be presented, and a fund raising then the fund-raising should be reflected in the pro forma information if the acquisition is conditional upon it. This suggests that if there is no such conditionality then the fund-raising should not be reflected. This is not correct – for example there may be no conditionality but the issuer may have arranged a fully underwritten share placing to fund the acquisition.

<ESMA\_QUESTION\_CPG\_17>

**Q18** Do you believe the application of any of the draft guidelines 18, 19, 20, 21, 22, 23, 24, 25 and 26 will impose additional costs on the persons responsible for the prospectus? If so, please provide evidence of the costs and – on a best-effort basis – quantify them.

<ESMA\_QUESTION\_CPG\_18>  
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<ESMA\_QUESTION\_CPG\_18>

### ***Interim financial information***

**Q19** Do you agree with the proposal to carry over only part of the CESR recommendations on interim financial information since some of the contents appear to be obsolete under the current legislative framework? If not, could you please indicate which CESR recommendations should have been retained and the legal basis for including them in these draft guidelines?

<ESMA\_QUESTION\_CPG\_19>  
Guidelines 27 and 28 do not appear to add anything that is not already covered by the Prospectus Regulation and we would question whether there is need for any guidance in respect of the requirements of item 18.2.1 of Annex 1 other than as follows:  
It states that if the interim information has been audited or reviewed then the report should be included – it would be helpful to clarify if this is the case where the report has not been published and where there is no requirement to do so.  
Item 18.2.1 contains a paragraph that states “Interim financial information prepared in accordance with the requirements of Regulation (EC) No1616/2002.” It would be helpful to have guidance to explain the purpose of this statement.  
<ESMA\_QUESTION\_CPG\_19>

**Q20** Do you believe the application of draft guidelines 27 and 28 will impose additional costs on the persons responsible for the prospectus? If so, please provide evidence of the costs and – on a best-effort basis – quantify them.

<ESMA\_QUESTION\_CPG\_20>  
TYPE YOUR TEXT HERE  
<ESMA\_QUESTION\_CPG\_20>

### ***Working capital statements***

**Q21** Do you agree with the rules for calculation of working capital in draft guideline 31? If you do not agree, please explain why and propose an alternative approach.

<ESMA\_QUESTION\_CPG\_21>  
We agree with the overall approach subject to it being made clear that: where account is taken of an irrevocable undertaking by a place or unwriting then there should be an assessment of (a) the credit worthiness of the entities providing the undertaking or underwriting and (b) any conditionality in an underwriting agreement that would allow the underwriter to cancel the underwriting.  
Furthermore, any bank facilities that are relied upon for the purpose of the working capital statement should be committed, subject to normal market terms.  
<ESMA\_QUESTION\_CPG\_21>

**Q22** Do you agree with the rules for calculation of present requirements in draft guideline 32? If you do not agree, please explain why and propose an alternative approach.

<ESMA\_QUESTION\_CPG\_22>

It is not entirely clear what is meant by “include liabilities for a minimum of 12 months”. We presume that the intention is to require that the working capital statement should take account of all amounts which are reasonably expected to be received or fall due to be paid within the next 12 months. This could be more clearly stated.

<ESMA\_QUESTION\_CPG\_22>

**Q23** Do you agree that it is useful to require credit institutions to take their liquidity risk into account when they determine their working capital? Do you agree with the requirements of draft guideline 34?

<ESMA\_QUESTION\_CPG\_23>

The guidance on liquidity is helpful but does not go far enough. Credit institutions and insurance companies typically also have regulatory capital requirements and it is often this that is the biting constraint when considered working capital. It would be helpful if the guidance to refer to both capital and liquidity requirements for credit institutions as a breach in either may result in the business needing to go back to the market for further capital.

<ESMA\_QUESTION\_CPG\_23>

**Q24** Do you agree that it is useful to require (re)insurance undertakings to take their liquidity metrics and their regulatory capital requirements into account when they determine their working capital? Do you agree with the requirements of draft guideline 35?

<ESMA\_QUESTION\_CPG\_24>

We agree that it is helpful to clarify this and as noted in response to question 23, it needs expansion to capture the way that regulatory capital is assessed for insurance undertakings.

<ESMA\_QUESTION\_CPG\_24>

**Q25** In relation to draft guidelines 29, 30, 33, 36 and 37, which largely carry over existing material, do you agree that this material should be carried over? If you do not, please specify which material is no longer relevant and explain why.

<ESMA\_QUESTION\_CPG\_25>

Paragraph 122(iv) refers to resources being sufficient to cover a “reasonable worst-case scenario”. The effect of prefacing it with “reasonable” is unclear. A similar comment may apply to suggesting that if there are no adequate facilities available to cover “reasonable alternative scenarios” the working capital statement would be qualified. As these paragraphs are critical in determining when a working capital statement should be qualified, it should provide much clearer guidance on where the threshold lies. Based on market practice, we would suggest replacing “reasonable worst-case scenario” with for instance “downside scenarios that whilst they may be unlikely to arise are reasonably foreseeable. Such scenarios should take account of any mitigating actions that management identifies as being realistic in the circumstances”. A similar approach could exist for “reasonable alternative scenarios”.

<ESMA\_QUESTION\_CPG\_25>

**Q26** Do you believe the application of any of the draft guidelines 29, 30, 31, 32, 33, 34, 35, 36, and 37 will impose additional costs on the persons responsible for the prospectus? If so, please provide evidence of the costs and – on a best-effort basis – quantify them.

<ESMA\_QUESTION\_CPG\_26>  
TYPE YOUR TEXT HERE  
<ESMA\_QUESTION\_CPG\_26>

### ***Capitalisation and indebtedness statements***

**Q27** Would you like more specific guidance on what to disclose concerning the type of guarantee according to draft guideline 38? If so, please explain which type of further guidance would be helpful.

<ESMA\_QUESTION\_CPG\_27>  
In paragraph 155 presumably a subsidiary of the issuer whose financial information is consolidated in the statement of capitalisation would not be considered to be a third party to the issuer. If that is the case it would be helpful to state that.  
<ESMA\_QUESTION\_CPG\_27>

**Q28** Would you like more specific guidance on how credit institutions and (re)insurance undertakings should adapt the capitalisation statement according to draft guideline 38? If so, please explain which type of further guidance would be helpful.

<ESMA\_QUESTION\_CPG\_28>  
We would suggest caution before issuing additional guidance. Indeed, as regulatory requirements applicable to that industry continue to evolve, any guidance given now may give rise to issues in the future.  
<ESMA\_QUESTION\_CPG\_28>

**Q29** Do you agree that trade receivables and trade payables should be included in the indebtedness statement, as proposed in draft guideline 39?

<ESMA\_QUESTION\_CPG\_29>  
We suggest to clarify the intended purpose of the indebtedness statement as that may allow users to better understand which elements should be included and which not. Without such clarity of purpose one could think that other payables and receivables such as payroll taxes should also be included if the trade receivables and trade payables are included. Extending components to closer align to IFRS based financials, begs the question as to why not just use IFRS based financial data altogether and require interim financial statements to be included.  
<ESMA\_QUESTION\_CPG\_29>

**Q30** In the indebtedness statement, do you agree that financial liabilities from leases should be included under financial debt and described further in a paragraph after the statement of indebtedness?

<ESMA\_QUESTION\_CPG\_30>

We agree that financial liabilities from leases should be included as debt but we do not see any particular reason for additional disclosure.

<ESMA\_QUESTION\_CPG\_30>

**Q31** Do you consider that any line items in either the capitalisation or the indebtedness statement are not useful to investors? Please explain your answer.

<ESMA\_QUESTION\_CPG\_31>

Guideline 39 requires an issuer to provide amounts for “cash” and “cash equivalents”. We do not consider it necessary to present cash and cash equivalents separately. These items are presented as a single item “cash and cash equivalents” in IFRS financial statements and issuers with a complex structure might have issues to determine these amounts. In addition, we do not see any benefit for an investor to present these two items in separate lines.

<ESMA\_QUESTION\_CPG\_31>

**Q32** Do you have any other comments on draft guidelines 38 and 39?

<ESMA\_QUESTION\_CPG\_32>

Paragraph 156 requires that other reserves should not include the profit and loss account for the current period. However, the capitalisation table may simply be extracted from year end or interim financial information contained elsewhere in the prospectus and we would request caution before possibly creating an inconsistency with that information. Additionally if the guidance on the indebtedness statement requires to include items such as trade receivables and trade payables, it will require issuers to prepare management accounts with a sufficient degree of accuracy to calculate those items and those management accounts will include a profit and loss figure for the current period.

In paragraph 166 the example given of indirect indebtedness appears, based on our reading, to be a contingent indebtedness i.e. there is only a liability if the borrower defaults. Therefore, we believe that it would be helpful to have a clear explanation of what is meant by indirect indebtedness.

<ESMA\_QUESTION\_CPG\_32>

**Q33** Do you believe the application of draft guidelines 38 and 39 will impose additional costs on the persons responsible for the prospectus? If so, please provide evidence of the costs and – on a best-effort basis – quantify them.

<ESMA\_QUESTION\_CPG\_33>

These proposals will incur additional costs to issuers in preparing the increased level of disclosure and in obtaining comfort thereon from their auditors.

<ESMA\_QUESTION\_CPG\_33>

### **Remuneration**

**Q34** Do you agree with the approach taken for this draft guideline, i.e. to almost entirely replicate the existing CESR recommendations? If not, please provide your reasoning and suggest an alternative approach.

<ESMA\_QUESTION\_CPG\_34>

TYPE YOUR TEXT HERE  
<ESMA\_QUESTION\_CPG\_34>

**Q35** Do you believe the application of draft guideline 40 will impose additional costs on the persons responsible for the prospectus? If so, please provide evidence of the costs and – on a best-effort basis – quantify them.

<ESMA\_QUESTION\_CPG\_35>  
TYPE YOUR TEXT HERE  
<ESMA\_QUESTION\_CPG\_35>

### ***Related party transactions***

**Q36** Do you agree with the content of this draft guideline? Do you think it provides further clarity to the market? If not, please explain.

<ESMA\_QUESTION\_CPG\_36>  
This guideline is clear.  
<ESMA\_QUESTION\_CPG\_36>

**Q37** Do you believe that the application of draft guideline 41 will impose additional costs on the persons responsible for the prospectus? If so, please provide evidence of the costs and – on a best-effort basis – quantify them.

<ESMA\_QUESTION\_CPG\_37>  
TYPE YOUR TEXT HERE  
<ESMA\_QUESTION\_CPG\_37>

### ***Acquisition rights and undertakings to increase capital***

**Q38** Do you agree with the general approach taken for this draft guideline, i.e. to almost entirely replicate the existing CESR recommendations? If not, please provide your reasoning and suggest an alternative approach.

<ESMA\_QUESTION\_CPG\_38>  
TYPE YOUR TEXT HERE  
<ESMA\_QUESTION\_CPG\_38>

**Q39** Do you believe the application of draft guideline 42 will impose additional costs on the persons responsible for the prospectus? If so, please provide evidence of the costs and – on a best-effort basis – quantify them.

<ESMA\_QUESTION\_CPG\_39>  
TYPE YOUR TEXT HERE  
<ESMA\_QUESTION\_CPG\_39>

***Options agreements***

**Q40** Do you agree with the general approach taken for this draft guideline, i.e. to almost entirely replicate the existing CESR recommendations? If not, please provide your reasoning and suggest an alternative approach.

<ESMA\_QUESTION\_CPG\_40>  
TYPE YOUR TEXT HERE  
<ESMA\_QUESTION\_CPG\_40>

**Q41** Do you agree with the introduction of a specific disclosure point on the potential dilution effects connected to the exercise of option agreements?

<ESMA\_QUESTION\_CPG\_41>  
TYPE YOUR TEXT HERE  
<ESMA\_QUESTION\_CPG\_41>

**Q42** Do you believe the application of draft guideline 43 will impose additional costs on the persons responsible for the prospectus? If so, please provide evidence of the costs and – on a best-effort basis – quantify them.

<ESMA\_QUESTION\_CPG\_42>  
TYPE YOUR TEXT HERE  
<ESMA\_QUESTION\_CPG\_42>

***History of share capital***

**Q43** Do you agree with the guidance set out in draft guideline 44 which has been subject only to minor revision? If not, please elaborate on your reasoning and suggest an alternative approach.

<ESMA\_QUESTION\_CPG\_43>  
TYPE YOUR TEXT HERE  
<ESMA\_QUESTION\_CPG\_43>

**Q44** Do you believe the application of draft guideline 44 will impose additional costs on the persons responsible for the prospectus? If so, please provide evidence of the costs and – on a best-effort basis – quantify them.

<ESMA\_QUESTION\_CPG\_44>  
TYPE YOUR TEXT HERE  
<ESMA\_QUESTION\_CPG\_44>



***Description of the rights attaching to shares of the issuer***

**Q45** Do you agree with the guidance set out in draft guideline 45 which has been subject only to minor revision? If not, please elaborate on your reasoning and suggest an alternative approach.

<ESMA\_QUESTION\_CPG\_45>  
TYPE YOUR TEXT HERE  
<ESMA\_QUESTION\_CPG\_45>

**Q46** Do you believe the application of draft guideline 45 will impose additional costs on the persons responsible for the prospectus? If so, please provide evidence of the costs and – on a best-effort basis – quantify them.

<ESMA\_QUESTION\_CPG\_46>  
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<ESMA\_QUESTION\_CPG\_46>

***Statements by experts***

**Q47** Do you agree with the guidance set out in draft guideline 46 which has been subject only to minor revision? If not, please elaborate on your reasoning and suggest an alternative approach.

<ESMA\_QUESTION\_CPG\_47>  
It would be helpful to have guidance for whether an auditor issuing a report on, for example, pro forma financial information would be considered to be an “expert” for these purposes as our understanding is that practice across member states has not been consistent on this point.  
<ESMA\_QUESTION\_CPG\_47>

**Q48** Do you believe the application of draft guideline 46 will impose additional costs on the persons responsible for the prospectus? If so, please provide evidence of the costs and – on a best-effort basis – quantify them.

<ESMA\_QUESTION\_CPG\_48>  
TYPE YOUR TEXT HERE  
<ESMA\_QUESTION\_CPG\_48>

***Information on holdings***

**Q49** Do you agree with the proposal to carry over only part of the CESR recommendations on information on holdings? If not, please indicate what further CESR recommendations should be retained and the legal basis for their inclusion in these draft guidelines.

<ESMA\_QUESTION\_CPG\_49>  
TYPE YOUR TEXT HERE



<ESMA\_QUESTION\_CPG\_49>

**Q50** Do you consider the clarification on the general principle whereby this draft guideline does not apply when the required information is provided in the issuer's consolidated / separate financial statements prepared in accordance with IFRS to be useful?

<ESMA\_QUESTION\_CPG\_50>

TYPE YOUR TEXT HERE

<ESMA\_QUESTION\_CPG\_50>

**Q51** Do you believe the application of draft guideline 47 will impose additional costs on the persons responsible for the prospectus? If so, please provide evidence of the costs and – on a best-effort basis – quantify them.

<ESMA\_QUESTION\_CPG\_51>

TYPE YOUR TEXT HERE

<ESMA\_QUESTION\_CPG\_51>

### ***Interests of natural and legal persons involved in the issue / offer***

**Q52** Do you agree with the guidance set out in draft guideline 48 which has been subject only to minor revision? If not, please elaborate on your reasoning and suggest an alternative approach.

<ESMA\_QUESTION\_CPG\_52>

TYPE YOUR TEXT HERE

<ESMA\_QUESTION\_CPG\_52>

**Q53** Do you believe the application of draft guideline 48 will impose additional costs on the persons responsible for the prospectus? If so, please provide evidence of the costs and – on a best-effort basis – quantify them.

<ESMA\_QUESTION\_CPG\_53>

TYPE YOUR TEXT HERE

<ESMA\_QUESTION\_CPG\_53>

### ***Collective investment undertakings***

**Q54** Do you agree with the guidance set out in the draft guidelines which have been subject only to minor revision, i.e. draft guidelines 49, 50, 52, 53, 54, 55 and 57? If not, please elaborate on your reasoning and suggest an alternative approach.

<ESMA\_QUESTION\_CPG\_54>

We agree with this guidance.

<ESMA\_QUESTION\_CPG\_54>

**Q55** Do you agree with the inclusion of new draft guideline 51? If not, please explain and indicate an alternative approach that would provide sufficient investor protection.

<ESMA\_QUESTION\_CPG\_55>  
TYPE YOUR TEXT HERE  
<ESMA\_QUESTION\_CPG\_55>

**Q56** Do you agree with the inclusion of new draft guideline 56? If not, please explain and indicate an alternative approach that would provide sufficient investor protection.

<ESMA\_QUESTION\_CPG\_56>  
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<ESMA\_QUESTION\_CPG\_56>

**Q57** Do you believe the application of any of the draft guidelines 49, 50, 51, 52, 53, 54, 55, 56 and 57 will impose additional costs on the persons responsible for the prospectus? If so, please provide evidence of the costs and – on a best-effort basis – quantify them.

<ESMA\_QUESTION\_CPG\_57>  
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