

EU Recovery Prospectus – A new temporary short-form prospectus for secondary issues of shares

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To support the recovery from the COVID-19 pandemic, the EU has introduced a new temporary short-form prospectus for certain types of issuers (the EU Recovery Prospectus). This measure aims at helping such issuers raise equity as quickly and with as little administrative burden and costs as possible.

The EU Recovery Prospectus is enacted in the new Regulation (EU) 2021/337 adopted by the European Parliament and Council on 16 February 2021 (the Regulation) amending, among others, the current Prospectus Regulation (EU) 2017/1129 (the Prospectus Regulation).

The Regulation came into force on 18 March 2021 and will be at this stage available until 31 December 2022.

SCOPE OF APPLICATION

The possibility of using the EU Recovery Prospectus is available for secondary issues of shares (excluding debt instruments or other instruments) to issuers and offerors listed for at least 18 months on a regulated market or an SME growth market.

In addition, the EU Recovery Prospectus can only be used for issues of shares that do not exceed 150% (over 12 months) of the number of shares already admitted to trading on the relevant regulated market or SME growth market on the date of approval of the EU Recovery Prospectus.

For Belgium, the EU Recovery Prospectus may be a tool for mature issuers listed on Euronext Brussels or having shares traded on Euronext Growth since September 2019.

CONTENT AND FORMAT REQUIREMENTS

In order to be an efficient tool for issuers, the EU Recovery Prospectus may take the format of a single and concise document (maximum 30 pages and a summary of maximum 2 pages) focusing on essential information enabling investors to make informed investment decisions. According to the Annex Va to the Regulation, this information includes, among others:

- financial and non-financial long-term business strategy and objectives, including a specific reference of minimum 400 words to the business and financial impact of the COVID-19 pandemic on the issuer and its anticipated future impact;

- a statement as to whether the issuer has received State aid in the context of the recovery;
- essential information on the shares and their subscription.

The Regulation allows the incorporation of information by reference.

APPROVAL PROCESS

The period for the competent authority to review the EU Recovery Prospectus is reduced to 7 working days. However, a prospective issuer must inform the competent authority of the submission at least 5 working days in advance.

Once approved, the EU Recovery Prospectus can benefit from the EU single passport of approved prospectuses for cross-border offers and admissions to trading.

OTHER (LIMITED) AMENDMENTS

The Regulation also amends the Prospectus Regulation in other respects and provides:

- the temporary increase of the exemption threshold for non-equity securities issued by a credit institution from EUR 75 million to EUR 150 million (calculated over 12 months);
- the extension of the deadline for investors to exercise their withdrawal rights after a supplement prospectus to 3 working days;
- the limitation of the requirement for financial intermediaries to contact “their” investors once a supplement prospectus is published.

WHAT’S NEXT?

By 21 July 2022, the Commission will assess and present a report on the adequacy of the disclosure regime for EU Recovery Prospectuses to meet its objectives.

In the context of the 5-year review of the Prospectus Regulation, it is not excluded that the new regime introduced by the EU Recovery Prospectus will, to a certain extent, replace the simplified disclosure regime that currently exists under the Prospectus Regulation.

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