

Update AFM prospectus supervision: points of review for 2025

Dear Sir/Madam,

The Dutch Authority for the Financial Markets (AFM) would like to inform you about some specific points that our prospectus team will focus on in 2025 when reviewing (base) prospectuses and supplements. As in previous years, we anticipate a peak in applications for the update of base prospectuses and registration documents during the first months of the year. By sharing these points proactively, we aim to support issuers and to contribute to a smooth and timely approval process. This message will soon be published on the AFM website as well.

EU Listing Act

Level 1 amendments

The Prospectus Regulation (EU) 2017/1129 has recently been amended by the EU Listing Act which came into force in December 2024. Most of the amendments that will affect the content of the prospectus are not yet applicable, as they still need to be implemented through delegated acts. However, some of the Level 1 amendments that are already applicable are relevant to keep in mind when drawing up prospectuses and supplements, as these may affect its content. For example, the extended minimum withdrawal period from two to three days in case of supplements or a pricing statement, the provision included in Article 23 Prospectus Regulation pursuant to which a supplement cannot be used to add a new type of security to a base prospectus, the amendments related to the risk factors, and the possibility to incorporate by reference future financial information. The latter two examples will be explained in more detail below.

Level 2 amendments

At the end of 2024, the consultation period by ESMA on draft technical advice concerning the Prospectus Regulation and on updating the Commission Delegated Regulation (EU) 2019/979 on metadata regarding the Level 2 measures was concluded. ESMA is expected to publish its final technical advice to the European Commission in the second quarter of 2025, based on the feedback received ([link](#)). Following this, the Commission will adopt the amended delegated regulations (EU) 2019/980 and (EU) 2019/979 and these amendments will become applicable on 5 June 2026, from which point prospectuses will need to comply with these new requirements for approval. We expect that this may have a significant impact on the form and content of the prospectus, as well as on the approval procedures. We will provide additional information as it becomes available and offer further clarification where necessary.

Risk Factors

The EU Listing Act also amended Article 16 of the Prospectus Regulation, which relates to the risk factors. Prospectuses shall no longer contain risk factors that are generic, that merely serve as a disclaimer or that do not give a sufficiently clear picture of the specific risk factors of which investors are to be aware. Also, the order of the risk factors within each category must be in line with the assessment by the issuer of the materiality of the risk factors.

We would like to draw your attention to these amendments and emphasize the importance of complying with them. As the risk factor section is an important section of the prospectus for investors, but also given our experience that issuers often have difficulties to comply with Article 16 PR and ESMA's Guidelines on Risk Factors, we will particularly focus on the risk factor disclosure in our review of prospectuses. This includes risk factors that lack specificity or fail to clearly indicate the materiality of the risk. 'Materiality' refers to how likely a risk is to occur and how much negative impact it would have if the risk materializes. We also often see that information in the risk factors, including specific corresponding information elsewhere in a prospectus, is outdated. To avoid comments in this respect, we strongly encourage issuers to carefully ensure that each risk factor and corresponding information individually meets the requirements of Article 16 PR and ESMA's guidelines.

No supplement for new financial information

One of the alleviations for issuers introduced by the EU Listing Act is that since 4 December 2024 issuers are no longer required to supplement their base prospectus(es) when new annual or interim financial information is published. This financial information can be incorporated by reference instead. For issuers who would like to make use of this option of incorporating future annual or interim financial information in their base prospectus(es), we note that the following should be stated in the section of the prospectus regarding incorporation by reference:

- Which future financial information will be incorporated by reference.
- If only parts of the document(s) will be incorporated, the specific parts of the financial reports which will be incorporated.
- The expected publication date.
- A hyperlink to the specific webpage of the issuer on which the financial information will be published.
- That the financial information that will be published after the approval date has not been considered by the AFM during the scrutiny and approval of the prospectus.

European Green Bonds

The European Green Bond Regulation came into effect on 21 December 2024, introducing uniform standards for the issuance of European Green Bonds (EuGBs) to enhance transparency and prevent greenwashing. The AFM's prospectus team is responsible for supervising compliance with this regulation. As the review of prospectuses that include EuGBs is new for us, our review may take us more time than usual. Therefore, we would appreciate it if issuers who are planning to issue EuGBs, could inform us of their intention, including when they expect to submit their application of approval of the prospectus. For practical information on submitting and notifying the publication of EuGB-documentation, please refer to our website: [link](#).

Sustainability

Sustainability remains a priority in capital market supervision. You can find more information in the latest AFM Market Watch publication ([link](#)) and on our website. Furthermore, if issuers are required to publish a sustainability report under the Corporate Sustainability Reporting Directive (CSRD), we will focus on whether this information is consistent with the information in the prospectus.

Information about artificial intelligence

We see that an increasing number of companies are integrating artificial intelligence (AI) into their business operations. If information about AI is included in a prospectus, we emphasize that it is important to clearly explain the role of AI and its impact on the business. This explanation should be objective, concrete, and detailed. Additionally, AI should not be presented as a positive feature in the prospectus without proper substantiation.

Approval process

We understand that a swift and efficient approval process is important for issuers and we are committed to supporting this as effectively as possible. To ensure a smooth process, we appreciate it to be informed of the desired approval date at the start of the approval procedure. Additionally, timely submissions and providing a high-quality first draft of the prospectus are essential for an efficient review. Please note that the approval process of base prospectuses typically requires a minimum of six weeks.

We trust that this information is helpful. Should you have any questions, please do not hesitate to contact us at service.prospectus@afm.nl.