

PUBLIC STATEMENT

Actions to mitigate the impact of COVID-19 on the EU financial markets – Coordination of supervisory action on accounting for lease modifications

The European Securities and Markets Authority (ESMA) is issuing this Public Statement to promote coordinated action by National Competent Authorities (NCAs) in the context of the COVID-19 pandemic in relation to issuers' obligations to publish periodic information that is drawn up in accordance with the relevant reporting framework.

ESMA and NCAs are aware of the difficulties due to the COVID-19 pandemic encountered by issuers admitted to trading on regulated markets to account for the rent concessions granted by lessors and, consequently, of the difficulties faced to fulfil the requirements contained in the Transparency Directive (TD)¹ to publish annual or half-yearly financial reports, which may include consolidated financial statements prepared in accordance with the applicable international accounting standard adopted pursuant to the procedure provided for under Article 6 of Regulation (EC) No 1606/2002² (IFRS as endorsed by the EU).

In accordance with Article 31(2) of Regulation (EU) 1095/2010³ (ESMA Regulation), ESMA is issuing this Public Statement to promote coordinated action by NCAs in response to these adverse events and provide clarity to issuers.

Background

Issuers whose securities are admitted to trading on a regulated market are required to make public an annual financial report at the latest four months after the end of each financial year in accordance with Article 4(1) of the TD. In addition, issuers of debt and share securities admitted to trading on a regulated market are required to make public a half-yearly financial

¹ Directive 2004/109/EC of the European Parliament and of the Council of 15 December 2004 on the harmonisation of transparency requirements in relation to information about issuers whose securities are admitted to trading on a regulated market and amending Directive 2001/34/EC (OJ L 390, 31.12.2004, p. 38).

² Regulation (EC) No 1606/2002 of the European Parliament and of the Council of 19 July 2002 on the application of international accounting standards (OJ L 243, 11.9.2002, p. 1).

³ Regulation (EU) No 1095/2010 of the European Parliament and of the Council of 24 November 2010 establishing a European Supervisory Authority (European Securities and Markets Authority), amending Decision No 716/2009/EC and repealing Commission Decision 2009/77/EC (OJ L 331, 15.12.2010, p. 84).

report covering the first six months of the financial year in accordance with Article 5(1) of the TD.

As set out in Article 4(3) and 5(3) of the TD, where issuers are required to prepare consolidated financial statements as part of their annual or of their half-yearly financial report, those need to be prepared in accordance with the international accounting standards adopted pursuant to the procedure provided for under Article 6 of Regulation (EC) No 1606/2002 – a procedure known as EU endorsement.

IFRS 16 *Leases* was adopted by the EU on 31 October 2017⁴ and contains requirements that specify the accounting for changes in lease payments, including rent concessions. In May 2020, following an accelerated due process, the International Accounting Standards Board (IASB) published an amendment to IFRS 16 (“COVID-19 related rent concessions – Amendment to IFRS 16”, hereafter IFRS 16 amendment) which provides a practical relief from the standard’s requirements to lessees who were granted COVID-19-related rent concessions. This amendment is effective for annual reporting periods beginning on or after 1 June 2020 but may also be applied early.

As of today, the IFRS 16 amendment is not yet adopted pursuant to the EU endorsement procedure. The Accounting Regulatory Committee (ARC) voted in favour of the amendment on 2 July. On 8 July, the EC formally transmitted the file to the European Parliament (EP) and the Council, who have three months to object.

ESMA acknowledges that the COVID-19 outbreak brings significant challenges for issuers applying the existing requirements to the potentially large volume of COVID-19-related rent concessions which have been granted in many jurisdictions. In particular, ESMA appreciates the practical difficulties of applying the existing IFRS 16 lease modifications requirements to COVID-19-related rent concessions. ESMA is also aware of the fact that such difficulties may result in diversity in application of the IFRS 16 requirements.

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⁴ Commission Regulation (EU) 2017/1986 of 31 October 2017 amending Regulation (EC) No 1126/2008 adopting certain international accounting standards in accordance with Regulation (EC) No 1606/2002 of the European Parliament and of the Council as regards International Financial Reporting Standard 16 (OJ L 291, 9.11.2017, p. 1).

While recognising the importance of transparent disclosure of financial reports, ESMA is of the view that the burdens on issuers associated with the COVID-19 outbreak should be taken into account by NCAs in a coordinated way.

Therefore, ESMA, in coordination with NCAs, expects that, provided that the European Parliament and the Council do not object to the endorsement of the IFRS 16 amendment, NCAs will not prioritise supervisory actions in relation to the application of the requirements for lease modifications contained in IFRS 16 as currently endorsed by the EU to COVID-19-related rent concessions that would otherwise fall within the scope of the IFRS 16 amendment. This coordination of supervisory action would exceptionally apply to financial periods ending on or before 31 July 2020 and as long as issuers apply to those transactions the accounting treatment foreseen in the IFRS 16 amendment. Where issuers apply the IFRS 16 amendment, ESMA and NCAs expect issuers to disclose compliance with this amendment as issued by the IASB in the notes to the financial statements.

Notwithstanding this, ESMA highlights that the persons responsible within the issuers continue to be responsible for the obligations set out in Articles 4(2)(c) and 5(2)(c) of the TD for the annual financial reports and the half-yearly financial reports respectively. Furthermore, where applicable, auditors continue to be responsible for providing an audit opinion in accordance with, amongst others, Article 28(2)(c) of the Audit Directive⁵.

ESMA, together with NCAs, will continue to closely monitor the situation and will take or recommend any measures necessary to mitigate the impact of COVID-19.

⁵ Directive 2006/43/EC of the European Parliament and of the Council of 17 May 2006 on statutory audits of annual accounts and consolidated accounts, amending Council Directives 78/660/EEC and 83/349/EEC and repealing Council Directive 84/253/EEC (OJ L 157, 9.6.2006, p. 87).