

European enforcers to focus on new IFRSs and non-financial information in issuers' 2018 annual reports

The 2018 enforcement priorities for IFRS financial statements, reflecting the relevance and magnitude of the change introduced by new reporting standards, and taking into account issues identified by NCAs through their enforcement activities, are:

- the application of IFRS 15 *Revenue from Contracts with Customers* and IFRS 9 *Financial Instruments*, for the first-time in the 2018 IFRS financial statements; and
- disclosure on the implementation and expected impact of IFRS 16 *Leases* coming into force in 2019.

In addition, the statement highlights the requirements to disclose non-financial information, with a focus on environmental matters, and specific aspects of ESMA's Guidelines on Alternative Performance Measures.

Steven Maijoor, Chair, said:

"This year's enforcement priorities focus on the new standards that are applied for the first time in annual financial statements: IFRS 15 and IFRS 9. These standards have introduced significant changes for the financial statements of many issuers, and ESMA expects them to provide sufficient level of transparency on the application of the new standards. In particular, issuers should focus on the application and recognised impact of the new accounting models for revenue recognition and for impairment of financial assets.

"Non-financial reporting, most notably on environmental matters, is gaining momentum in Europe, as part of a broader EU initiative to achieve a more sustainable financial system. To serve this purpose investors and the public need high-quality disclosures."

2018 Enforcement Priorities

The enforcement priorities for IFRS financial statements in 2018 are:

- Specific issues relating to the application of IFRS 15 *Revenue from Contracts with Customers* and IFRS 9 *Financial Instruments*: Issuers should in particular focus on identification and satisfaction of performance obligations, disaggregation of revenue and the disclosure of significant judgements related to recognition of revenue. For credit institutions, ESMA highlights the application of the new expected credit loss model (ECL) and, in particular, careful consideration and disclosure of significant inputs used in the assessment of a significant increase of credit risk and in the determination of ECL;

- Disclosure of the expected impact of the implementation of IFRS 16 Leases: The publication of financial statements will happen after the entry into effect of IFRS 16 and all issuers should be in a position to disclose the expected impact. Issuers that will be significantly impacted are also encouraged to consider what information would enable analysts and other users to update their models.

In addition to these common enforcement priorities, ESMA highlights specific requirements relating to the sections of the annual financial report other than the financial statements (such as management reports and non-financial statements). These include specific requirements on:

- the disclosures of non-financial information, and notably those related to environmental and climate change-related matters; and
- the application of the ESMA Guidelines on Alternative Performance Measures (APMs).

Finally, ESMA highlights the importance of disclosures analysing the possible impacts of the decision of the United Kingdom to leave the European Union.

Next steps

ESMA and European national enforcers will monitor and supervise the application of the IFRS requirements as well as any other relevant provisions outlined in the Statement, with national authorities incorporating them into their reviews and taking corrective actions where appropriate. ESMA will collect data on how European listed entities have applied the priorities and ESMA will report on findings regarding these priorities in its Report on the 2019 enforcement activities.

ESAs propose new amendments to technical standards on the mapping of ECAIs

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The Joint Committee of the three European Supervisory Authorities (EBA, EIOPA and ESMA – ESAs) launched today a public consultation to amend the Implementing Regulations on the mapping of credit assessments of External Credit Assessment Institutions (ECAIs) for credit risk to reflect the outcomes of a monitoring exercise on the adequacy of existing mappings, namely changes to the Credit Quality Steps (CQS) allocation for two ECAIs and the introduction of new credit rating scales for ten ECAIs. The Implementing Regulations are part of the EU Single Rulebook for banking and insurance

aimed at creating a safe and sound regulatory framework consistently applicable across the European Union (EU). The consultation runs until 31 December 2018.

In the Implementing Regulations on the mapping of ECAIs, adopted by the European Commission on 11 October 2016, the three ESAs specified an approach that establishes the correspondence between credit ratings and the credit quality steps defined in the Capital Requirements Regulation (CRR) and in the Solvency II Directive.

The ESAs are now consulting on an amendment to the Implementing Regulation to reflect the outcome of a monitoring exercise on the adequacy of the mappings, based on a quantitative and qualitative assessment. In particular, the ESAs are proposing to change the CQS allocation for two ECAIs, together with the introduction of new credit rating scales for ten ECAIs.

The ESAs also published individual draft mapping reports illustrating how the methodology was applied to produce the amended mappings in line with the CRR mandate.

Consultation process

Comments to the Consultation Paper on the mapping under Article 136 of the CRR can be sent by clicking on the “send your comments” button on the EBA’s consultation page. Comments to the Consultation Paper on the mapping under Article 109 (a) of the Solvency II Directive can be provided using the template for comments downloadable from [EIOPA’s website](#). Please note that the deadline for the submission of comments is 31 December 2018.

All contributions received will be published following the close of the consultation, unless requested otherwise.

Legal basis

The proposed revised draft ITSs have been developed according to Article 136 (1) and (3) of Regulation 575/2013 (Capital Requirements Regulation) and of Article 109 (a) of Directive 2009/138/EC (Solvency II Directive), which state that revised draft ITS shall be submitted by the ESAs, where necessary.

Note to editors

This change follows a first amendment to the Implementing Regulations, which was proposed by the ESAs in 2017 and adopted by the European Commission on 24 April 2018. The first change reflected the withdrawal of the registration of one CRA and the recognition of five additional CRAs since the adoption of the Implementing Regulations in October 2016.

Two ECAIs, Creditreform and Spread Research, have not consented to the publication of their mapping reports. In the absence of a consent, the ESAs published only the outcome of the revision, i.e. the relevant mappings in Annex III of the draft amended ITS ([“Mapping tables”](#)) together with two

documents listing the applicable credit rating scales and credit rating types for each of the concerned ECAI.

Mergers: Commission approves acquisition of sole control over EMI Music Publishing by Sony

EMI Music Publishing (“EMI MP”), a music publishing company, is since 2012 jointly owned and controlled by Sony Corporation of America (“Sony”) and Mubadala Investment Company PJSC (“Mubadala”), an investment fund based in the United Arab Emirates. Under the proposed transaction, Sony would now acquire sole control and ownership over EMI MP.

Music publishers exploit the copyrights of authors by granting licences to users of music. The most common music publishing rights are mechanical rights (e.g. for recorded music), performance rights (e.g. for concerts and TV and radio broadcasting), online rights (e.g. for online music downloading or streaming) and synchronisation rights (e.g. for advertisements and film music).

Since 2016, the fully owned and controlled music publishing subsidiary of Sony, Sony/ATV, has been the exclusive administrator of EMI MP’s entire catalogue, whereas EMI MP itself plays no role in licensing its catalogue to digital platforms, or in signing and retaining authors.

Commission investigation

Since Sony already has joint control of EMI MP, the transaction would not lead to any increase in market share in any of the markets where Sony and EMI MP are active. Therefore, the Commission focused its investigation on assessing whether Mubadala has acted as a constraint on Sony’s ability to leverage across both recording music and music publishing rights and, in particular, into the potential impact of the removal of this constraint on any hypothetical Sony strategy for EMI MP.

As regards the **provision of music publishing services to authors**, the Commission concluded that, as Sony/ATV and EMI MP have not competed to sign new authors since 2012, and as Mubadala did not constrain Sony’s strategy before the merger, the merger would not raise competition concerns.

As regards the **exploitation of the copyrights offline**, the Commission excluded competition concerns because Sony/ATV already has the sole and exclusive right to license EMI MP’s publishing rights offline. Moreover, in relation to mechanical and performance rights the Commission concluded that

control over pricing and licensing terms is in any case in the hands of collecting societies.

Finally, as regards the **exploitation of publishing rights for online use**, although the merger would not lead to any increase in market shares, the Commission analysed whether the transaction could increase Sony's bargaining power vis-à-vis online music platforms in the market for online music licensing.

This is because Sony not only holds publishing rights for songs but also recording rights (via its recording division – Sony Music), and online platforms need a licence to both sets of rights to be able to offer their services. As the repertoire of songs over which Sony has publishing rights only overlaps partially with the one over which it holds recording rights, Sony has control over a larger set of songs than just the songs controlled by Sony/ATV and EMI MP.

The Commission looked into whether, after the transaction, Sony could threaten not to license its rights – publishing or recording – in order to extract better terms from online platforms. However, the Commission found that the transaction would not materially increase Sony's bargaining power vis-à-vis online platforms, in particular because:

a) Any strategy to extract better terms from online platforms to the benefit of both music publishing and recorded music would have also been in the interest of Mubadala before the merger, and therefore the merger would not change the current situation.

b) The Commission found that authors could credibly threaten to switch away from Sony if it attempted to degrade the value of their publishing rights to the benefit of its recording division.

c) Even assuming that this type of strategy would be possible and valuable for Sony, the Commission found that, on the market for the licensing of online rights in the European Economic Area, the transaction would not give rise to competition concerns, as Sony's position vis-à-vis digital music providers would not significantly increase compared to the current situation. In fact, as is already the case today, online platforms would continue to have access to both Sony's and third parties' repertoire to operate in the EEA.

Therefore, following its phase I investigation, the Commission concluded that the transaction would raise no competition concerns in any of the affected markets and cleared the case unconditionally.

Companies and products

EMI Music Publishing, based in the UK, is a music publishing business currently jointly controlled by Sony and Mubadala.

Sony Corporation of America, the US subsidiary of Sony Corporation, headquartered in Japan, is a leading player in the music recording and publishing business. Sony/ATV is not a party to the transaction, but has

administered EMI MP's catalogue since 2012. Sony/ATV is the wholly-owned music publishing subsidiary of Sony Corporation of America.

Mubadala Investment Company PJSC, based in Abu Dhabi, is a public joint stock company focused on investment and development that is wholly owned by the Government of the Emirate of Abu Dhabi in the United Arab Emirates. Mubadala is active in investing in a wide range of strategic sectors, including energy, utilities, real estate, basic industries, and services.

Merger control rules and procedures

The transaction was notified to the Commission on 21 September 2018.

The Commission has the duty to assess mergers and acquisitions involving companies with a turnover above certain thresholds (see Article 1 of the [Merger Regulation](#)) and to prevent concentrations that would significantly impede effective competition in the EEA or any substantial part of it.

The vast majority of mergers do not pose competition problems and are cleared after a routine review. From the moment a transaction is notified, the Commission generally has a total of 25 working days to decide whether to grant approval (Phase I) or to start an in-depth investigation (Phase II).

More information will be available on the [competition](#) website, in the Commission's [public case register](#) under the case number [M.8989](#).

Main topics and media events 29 October – 11 November 2018

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