



Key Aspects of the EU Listing Act package

to improve access to capital markets for SMEs

LISTING ACT PACKAGE

What is the Listing Act package about?



In short

On 14 November 2024, the Listing Act package was published in the Official Journal of the European Union, marking the next step in the ongoing realisation of the **Capital Markets Union**. This package introduces **three key legislative acts** designed to improve access to EU capital markets, in particular for small and medium-sized enterprises (SMEs). The reforms aim to simplify and streamline regulatory requirements for access to public equity funding, reduce compliance costs and increase transparency, thereby ultimately fostering better visibility for issuers and providing investors with more reliable information. In this client briefing, we discuss the most important amendments brought about by the package.

Amending Regulation

- Amends Prospectus Regulation: (a) new prospectus exemptions, especially for secondary issuances; (b) increased standardisation of prospectus format; (c) new types of documents; (d) shorter IPO period
- Amends MAR: (a) changes to the disclosure obligation of inside information; (b) higher threshold for notifications of managers' transactions; (c) definition of market sounding expanded and the exemption becomes optional; (d) simplification of the share buyback safe harbour
- Enters into force on 4 December 2024, with some changes applicable as of 5 March 2026 (EU Growth issuance prospectus and EU Follow-on prospectus) and 5 June 2026 (certain provisions on standardisation of documents and dual-threshold system)

Amending Directive

- Amends MiFID II: (a) stimulate investment research by amending the unbundling rule; (b) new EU code of conduct for issuer-sponsored research; (c) lower free float requirement
- Repeals Listing Directive which had already become redundant for the most part
- To be transposed by 5 December 2026

Multiple-Vote Share Structures Directive

- Member States must allow companies to adopt a multiple-vote share structure (MVSS) when they first list on an EU MTF
- Transparency requirements on MVSS in publicly available documentation
- Safeguards for the protection of shareholders who do not hold multiple-vote shares (MVS)
- Optional double loyalty voting rights for shareholders in Belgian companies listed on a regulated market can be maintained
- To be transposed by 5 December 2026

NEW AND EXPANDED PROSPECTUS EXEMPTIONS

DUAL-THRESHOLD SYSTEM

i. General prospectus exemption threshold for **public offers** raised to total aggregated consideration within the **EU of EUR 12 mio per issuer/offeror, calculated over a 12-month period. Member States** may opt to apply a threshold of **EUR 5 mio** instead.

ii. In case of sub-threshold public offers, Member States retain the right to require the publication of a disclosure document containing the same level of information as a prospectus summary.

SUB-30% EXEMPTION

i. Threshold for the admission to trading exemption for secondary issuances raised from 20% to **30%** and also becomes applicable to **public offers** of securities to be admitted to trading, provided that the new securities are **fungible** with those already admitted to trading on the **same market**.

ii. The exemption now also applies to securities admitted to trading on an **SME growth market**.

iii. The issuer must **not be subject to a restructuring or insolvency proceeding**.

iv. In case of a public offer (but not the admission to trading with a private placement), a short-form document, limited to a maximum of 11 A4-pages, containing key information for investors must be published (**Annex IX document**).

UNLIMITED EXEMPTION FOR SEASONED ISSUERS

i. **Offering** prospectus exemption without threshold for public offers of securities **fungible** with securities admitted to trading on the same or a different **regulated market** or on the same or a different **SME growth market**, and **listing** prospectus exemption for admission to trading of securities **fungible** with securities admitted to trading on the same or different **regulated market** (but not an SME growth market), in both cases if the already traded securities have been admitted to trading **continuously for the last 18 months** before the public offer or the admission to trading of the new, fungible securities.

ii. The newly offered securities or securities admitted to trading must **not be issued in connection with a takeover by means of an exchange offer, a merger or a division**.

iii. The issuer must **not be subject to a restructuring or insolvency proceeding**.

iv. Publication of an **Annex IX document** under both public offer and listing exemptions.

NEW PROSPECTUS TYPES

EU FOLLOW-ON PROSPECTUS

i. Current secondary issuance regime replaced by **EU Follow-on prospectus** based on the EU Recovery prospectus. **Available for:**

✓ Issuers whose securities have been admitted to trading on a regulated market or an SME growth market continuously for at least the last 18 months before the public offer or admission to trading of the new securities;

✓ Issuers seeking admission to trading on a regulated market of securities fungible with securities that have been admitted to trading on an SME growth market continuously for at least the last 18 months;

✓ Offerors of securities admitted to trading on a regulated or SME growth market continuously for at least the last 18 months before the public offer.

ii. Issuers who have only **non-equity** securities admitted to trading on a regulated market or on an SME growth market must still publish a full prospectus when for the admission of trading of equity securities on a regulated market;

iii. Inclusion of financial information of **one year** only;

iv. **7-page** summary section and **50-page** limit excluding summary, information incorporated by reference, and disclosures required for issuers in certain cases.

EU GROWTH ISSUANCE PROSPECTUS

i. Replaces the current EU Growth prospectus regime and is **available for**, amongst others, (a) SMEs; (b) issuers, other than SMEs, whose securities are, or are to be, admitted to trading on an SME growth market; and (c) other issuers where the total consideration for the securities offered to the public is below EUR 50 mio;

ii. Consists of a **single document, standardized in format and sequence** for both equity and non-equity securities;

iii. **75-page limit** for shares prospectuses, excluding summary, information incorporated by reference, and disclosures required for issuers in certain cases.



All prospectus types are voluntary in nature. This allows an issuer to select the most appropriate prospectus type from the available options, or to draw up a prospectus even if an exemption is available. This could be particularly relevant in terms of (non-)liability and disclosure comfort.

The EU Follow-on Prospectus and the EU Growth Issuance Prospectus are subject to the same liability regime as a full prospectus, applying to both domestic and cross-border offers or admissions to trading.

STANDARDISATION AND PAGE LIMIT

i. Further **standardisation of format** and information to be disclosed in a **fixed order**.

ii. **300-page limit** for shares prospectuses, excluding summary, information incorporated by reference, and disclosures required for issuers in certain cases.

iii. **ESG** considerations added.

iv. A prospectus can be drawn up in a language customary in the **sphere of international finance** (i.e. English). However, the **prospectus summary** must always be available in (at least one of) the **official language(s)** of each Member State, or in another language accepted by the competent authority that Member State.

SAFE HARBOURS

MARKET SOUNDING

i. The market sounding regime, allowing to gauge investor interest in a potential transaction, becomes **optional**, and the disclosure of information to third parties without complying with the strict requirements **does not automatically mean** that they have unlawfully disclosed inside information.

ii. **Definition** of market sounding now clarifies that communications of information not followed by any specific announcement of a transaction are included.

iii. Remain **unaffected**: (a) obligation for disclosing market participants, prior to conducting a market sounding, to **specifically consider** whether the market sounding will involve the disclosure of inside information; (b) obligation to inform the recipient when information that has been disclosed during a market sounding **ceases to be inside information**; and (c) obligation to keep an **audit trail**.

BUY-BACK PROGRAMMES

Reporting obligations in order to benefit from the **buy-back programmes safe harbour** simplified:

i. Trades to be reported only to the competent authority of the most relevant market in terms of **liquidity**.

ii. Trades to be disclosed to the public in **aggregated form** only.

DISCLOSURE OF INSIDE INFORMATION

FINAL EVENT

i. MAR requires issuers to **promptly disclose inside information that directly concerns them**. However, identifying what constitutes inside information can be challenging, particularly in **protracted processes** where intermediate steps can currently constitute in themselves inside information.

ii. MAR is now amended to no longer require the disclosure of steps in a protracted process (and hence the delay procedure). The issuer should only disclose information about the specific circumstances or **final event** of the protracted process, **as soon as possible** after it occurs.

iii. **Other obligations** under MAR, such as the creation of an insider list and the prohibition on insider dealing, continue to apply regarding intermediate steps in a protracted process.

DISCLOSURE OF INSIDE INFORMATION

DELAYING DISCLOSURE

i. Currently, delaying the disclosure to the public of inside information is allowed, on the issuer's own responsibility, if:

- ✓ **immediate disclosure is likely to prejudice** the legitimate interests of the issuer;
- ✓ delay of disclosure is **not likely to mislead the market**; and
- ✓ the issuer is able to **ensure the confidentiality** of the information.

ii. The second condition is replaced by the requirement that the inside information must **not be in contrast with the issuer's latest public announcement or other type of communication on the same matter**.

iii. **Ex-post notification of** the competent authority of any delay in disclosing inside information remains mandatory.

MANAGERS' TRANSACTIONS

i. Transaction reporting for persons discharging management functions and persons closely related to them raised from EUR 5,000 to **EUR 20,000**. Competent authorities may adjust this threshold to EUR 50,000 or EUR 10,000 based on national market conditions.

ii. Exceptions to trading during closed period expanded:

✓ Current exemption for employee share or saving scheme and employees' schemes extended to **financial instruments other than shares**.

✓ **New exemption** for transactions or trade activities that **do not relate to active investment decisions** undertaken by the person discharging managerial responsibilities (i.e. discretionary portfolio management), or that **result exclusively from external factors or actions of third parties** (e.g. inheritances), or that are transactions or trade activities, including the **exercise of derivatives**, based on predetermined terms.

OTHER AMENDMENTS

i. **Insider lists:** extension of the alleviated form possible through implementing technical standards.

ii. **Liquidity contracts on SME growth markets:** market operator's or investment firm operating an SME growth market no longer needs to consent to the liquidity contract's term and conditions.

iii. **Front-running:** definition no longer limited to persons charged with the execution of orders.

INVESTMENT RESEARCH

i. Investment research must be **fair, clear and not misleading**.

ii. **Issuer-sponsored research must comply with an EU code of conduct** which will set out standards of independence and objectivity and will require procedures to identify, prevent, and disclose conflicts of interest. Only research compliant with this code can be labelled as issuer-sponsored, and **non-compliant recommendations must be treated as marketing communications**. Non-compliance may lead to suspension of research distribution and public warnings.

iii. Investment firms are required to **evaluate the quality, usability, and value of research to ensure it benefits their clients' investment decisions**, particularly when used in portfolio management or distributed directly.

iv. The current **market capitalisation threshold of EUR 1 billion for the preceding 36 months**, below which bundled payments for execution services and research on SMEs is allowed, **has been removed**. Investment firms now have greater flexibility to bundle payments for research and brokerage services, provided they **ensure transparency towards clients regarding payment arrangements**. This adjustment aims to address the ongoing decline in investment research, particularly for SMEs.

v. Finally, **trading commentaries and other bespoke trade advisory services** intrinsically linked to execution are **not considered investment research**. This distinction, alongside the increased flexibility for bundling payments, is intended to support a more robust market for investment research while preserving transparency and protecting client interests.

ADMISSION TO A REGULATED MARKET

Specific provisions concerning the conditions for admission of shares to a regulated market from the Listing Directive are being integrated into MiFID II.

✓ The **EUR 1 million foreseeable market capitalisation** condition for admission to shares to a regulated market is maintained. Member States may, however, provide for alternative requirements to measure whether a sufficient number of shares has been distributed to the public.

✓ The previously required **minimum free float** level of 25% is deemed excessive and **lowered to 10%** at the time of admission, promoting flexibility for issuers while still ensuring sufficient market liquidity.

✓ **Geographical restrictions** on share distribution are **removed**.

MULTIPLE-VOTE-SHARES STRUCTURES

- i. The Directive establishes common rules for MVS structures in **companies seeking to list their shares on an MTF** in the EU, **provided they are not already trading on another MTF or regulated market**.
- ii. MVSs are shares belonging to a **distinct share class** with **more voting rights** than other share classes. Non-voting shares, shares with veto rights and loyalty shares are excluded from the scope of this Directive.
- iii. Member States must **enable companies without previously traded shares to adopt an MVSS** when seeking admission to trading on an MTF.
- iv. Member States **may retain or introduce national provisions permitting MVSS** beyond the Directive's scope. However, companies may not face restrictions on the admission to trading of their shares on an MTF solely due to the use of an MVS structure.

SAFEGUARDS AND TRANSPARENCY

- i. The Directive includes robust safeguards to ensure fair and non-discriminatory treatment of shareholders. Decisions to adopt or amend MVSS must be **approved by a qualified majority at the general meeting**, with separate votes required in each affected share class. Additionally, **Member States must limit the voting weight of MVS**, either through a maximum weighted voting ratio or by restricting enhanced voting rights in qualified majority decisions. **Optional safeguards**, such as sunset clauses (time-based, event-based, or transfer-based), may further prevent the indefinite continuation of enhanced voting rights, ensuring balance and protecting long-term shareholder interests.
- ii. To promote accountability, companies with MVSS must **disclose detailed information in offering documents and annual financial reports**. This includes the structure of their share capital, restrictions on share transfers or voting rights and, if known to the company, the identities of large shareholders holding MVSs.

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For more details about our Banking & Finance Team and the services they provide, please visit our website at www.lydian.be.

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