

## Consumers

30.03.2023 | Topic [Consumer protection](#), [Unauthorised business](#), [Prospectuses](#)

# Performance to Go PLC: suspected offer to the public of “pre-market cumulative preferred shares” by Performance to Go PLC without the required prospectus

**BaFin has sufficient grounds to suspect that Performance to Go PLC is offering securities to the public in Germany in the form of “pre-market cumulative preferred shares” without the required prospectus. There is no evidence to suggest that the company is exempt from the prospectus requirement.**

### Background information:

As a rule, securities may be offered to the public in Germany only if a prospectus has been published. This prospectus must be approved by [BaFin](#) prior to publication. Offering securities to the public without an approved prospectus constitutes a violation of the prospectus requirement under Article 3(1) of the [EU Prospectus Regulation](#) – unless an exemption applies.

During the prospectus approval process, [BaFin](#) checks whether the minimum information required by law is included in the prospectus and whether its content is understandable, coherent and consistent. [BaFin](#) is not responsible for checking whether the information contained in the prospectus is correct, for assessing the integrity of the issuer, or for monitoring the product in question.

Offerors and issuers can be held liable for failing to publish a prospectus as required (section 14 of the German Securities Prospectus Act (Wertpapierprospektgesetz – [WpPG](#))). The party responsible for the prospectus is liable for the accuracy and completeness of the information contained in the prospectus (sections 9 and 10 of the [WpPG](#)).

Violations of the prospectus requirement are punishable by a fine of up to [EUR 5 million](#) or 3% of total revenues for the previous financial year. Fines of up to twice the economic advantage gained from committing the offence may also be imposed.

[BaFin](#) advises consumers to base all investments in securities solely on the information offerors are required to provide by law.

You can check whether an approved prospectus for an offer of securities to the public has been filed with [BaFin](#) by consulting the [Prospectuses filed database](#) on the [BaFin](#) website.

### Please note:

In accordance with section 4 (4) of the German Act Establishing the Federal Financial Supervisory Authority (Finanzdienstleistungsaufsichtsgesetz – [FinDAG](#)), [BaFin](#) performs its functions and exercises its powers exclusively in the public interest. Due to their statutory obligation of confidentiality, BaFin’s

staff are not in a position to provide third parties with information regarding the progress and results of administrative proceedings.

However, there are ways in which you can support BaFin's work: if you have any specific information about the offeror mentioned above – such as contract templates, e-mail addresses, telephone or fax numbers of contact persons or the offeror's account details – please do not hesitate to get in touch with [contact point for whistleblowers](#).

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