



## JOINT PROPOSALS ON THE PROSPECTUS REGULATION LEVEL II MEASURES

We fully support the European Commission's Capital Markets Union (CMU) project, and its goal to strengthen the European economy and ensure easier access to markets for all companies, including growth companies which are the backbone and engine of the economy. The revision of the prospectus rules is a first step to reduce costs and burdens for companies whilst improving their access to funding, increasing information and financing choices for investors, and delivering more efficient European capital markets overall.

We welcome the agreement on the Prospectus Regulation reached by the European Commission, Parliament and the Council in December 2016. We especially welcome the proposals for a simplified EU Growth Prospectus which we believe has the potential to offer small and midcaps a true alternative to the current rules, provided its contents are well calibrated. Given that companies admitted to trading on Regulated Markets or Multilateral Trading Facilities (MTFs) already produce a great deal of information that is available publicly<sup>1</sup>, we emphasise the need to also alleviate as much as possible the regime for secondary offers.

The revised prospectus rules aim to make capital markets more attractive for both investors and companies seeking funding from capital markets. The Level II measures will, in this respect, play a key role in shaping the final prospectus rules, hopefully ensuring a major relief for companies looking for funding on capital markets while making disclosed information more useful for investors.

We, the co-signing organisations, have come together to stress the importance of making the current prospectus review a success both for companies and investors. To help EU policy makers achieve this goal, we outline below several guiding principles for the Level II measures of the Prospectus Regulation that would ensure that the EU Growth Prospectus and the secondary offers regimes are less burdensome and provide investors with the information they need.

### Simplify not complexify

- In order to be successful, the EU Growth Prospectus should be designed in such a way that it truly alleviates requirements and avoids complexity of rules. The complexity leads to excessive costs which discourage companies (especially smaller ones) from entering public capital markets, and results in disclosure of an excessive number of risk factors and boiler plate language.
- This can be achieved by simplifying prospectus schedules and clearly outlining the objectives of each section in order to drive costs down for issuers, whilst making prospectuses more

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<sup>1</sup> Prospectus to get admission to trading on a regulated market, admission documents for SME Growth Markets in case of exemptions, and on-going disclosure requirements under the Market Abuse Regulation (MAR) and Transparency Directive

readable for investors. In addition, reducing complexity of rules will help ensure that material risks are appropriately disclosed.

- Ensure that Level I is respected with no additional requirements.

## Ensure alignment with existing rules & avoid duplication

- Level II measures should significantly reduce burdens for companies, and ensure that rules are aligned with the existing framework and not duplicated. Clear rules are more likely to lead to clear reporting, thus ensuring that investors receive comprehensive and consistent information.
- The new Prospectus Regulation requires from secondary issuances a concise summary of price sensitive information disclosed under Market Abuse Regulation (MAR) over the past 12 months. We suggest it should be possible to fulfil this requirement by providing a link to the dedicated webpage with all MAR disclosures on the issuer's website. This will substantially lower liability risks and administrative costs for issuers while ensuring relevant information is available to investors. MAR already requires an issuer to keep inside information on its website for a period of at least 5 years.

## Further promote incorporation by reference and lighter prospectuses

- We recommend explicitly encouraging and giving issuers greater flexibility on incorporation by reference as a means of avoiding duplicate disclosure of already public information and reducing administrative costs for companies.
- This applies, in particular, to prospectus disclosures going beyond core information used by investors while making an investment decision.
- As recommended in Accountancy Europe's paper on simplified SME prospectuses<sup>2</sup>, one option could be to allow for prioritising the information currently found in prospectuses in three tiers.
- Thus, issuers should have the option of presenting the information based on three categories:
  - I. Core information that should be in the prospectus (e.g. description of the business model, key market features, business strategy, overview of performance, reasons for offering and use of proceeds).
  - II. Core information that is already made public on the company's website (e.g. audited historical financial statements, extended CVs and resumes of all management, or lock up data, type of shares, voting rights and the likes). The relevance of this information to the prospectus should be outlined, and the information should be incorporated in the prospectus with appropriate links and references to the relevant place on the company's website.
  - III. Generic non-company specific information made public either on a third-party website or the issuer's website (e.g. known differences between a country's accounting framework and the International Financial Reporting Standards). The relevance of this information to the prospectus should be outlined, and the

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<sup>2</sup> [https://www.accountancyeurope.eu/wp-content/uploads/Prospectus\\_paper.pdf](https://www.accountancyeurope.eu/wp-content/uploads/Prospectus_paper.pdf)

information should be incorporated in the prospectus with appropriate links and references to the relevant place on the website.

- The information disclosed (in any of the three categories) would allow for an easier comparison among them for consumers.

## **Focus on relevant and material information**

- On top of being proportionate and driving down costs, the EU Growth Prospectus should focus on key, relevant and useful information for investors.
- To this end, materiality should be a key guiding principle for all prospectus disclosures in order to ensure their relevance and reduce the overall length of the prospectus.

## **Keep it flexible**

- We recommend retaining flexibility in the order in which information is disclosed (e.g. it should be possible to describe the company's activities before detailing risk factors). This would allow companies to better highlight to investors their distinct characteristics and features. Flexibility is also key to avoid duplication of information and make prospectuses more comprehensible.
- Flexibility takes on even more importance in the case of SMEs since they do not have as many resources to spend on disclosing information as large companies.
- We suggest making it clear in Level II that the disclosure requirements are minimum requirements and that issuers are free to include additional information if they deem it necessary.

## **Foster supervisory convergence**

- Supervisory convergence is essential in order to avoid regulatory arbitrage, harmonise practices and ensure an efficient approval process. This would in turn ensure that companies are on a level playing field when raising capital.
- This could be achieved via the promotion of best practices across jurisdictions in order to help reduce approval times and streamline burdensome processes.
- Capital markets should remain accessible for all private investors and we would like to warn against 'overprotective' regulation.

## **Take advantage of digitalisation**

- We suggest considering technological evolution and state of the art solutions that could ease disclosure of information while ensuring it is useful for investors (apps, etc.).
- As a principle and based on current practice, issuers of prospectuses are encouraged to look at all presentations and media formats in order to find solutions as to how the information can be made available.

## For further information:

**Accountancy Europe** [www.accountancyeurope.eu](http://www.accountancyeurope.eu)

**European Banking Federation (EBF)** [www.ebf-fbe.eu](http://www.ebf-fbe.eu)

**EuropeanIssuers** [www.europeanissuers.eu](http://www.europeanissuers.eu)

**Federation of European Securities Exchanges (FESE)** [www.fese.eu](http://www.fese.eu)

**Invest Europe** [www.investeurope.eu](http://www.investeurope.eu)