

Print from the website of the AMF

26 May 2016

## Revision of the Prospectus Directive

**The revision of the Prospectus Directive, an important component of the Capital Markets Union (CMU) as the "gateway" for market financing, was announced by the European Commission in January 2015 and published on 30 November 2015. The proposed regulation is currently being reviewed by the European Council and Parliament. The AMF supports the planned reform but remains vigilant on the information provided to investors.**

The CMU project promises a widening of funding sources for companies, and in particular for innovative SMEs. In this regard, it proved necessary to reform the rules governing the prospectus – which had too often become a document providing issuers with legal protection – to refocus it on its primary purpose, reduce its cost, strike a new balance between the relevance and volume of information and increase convergence among European legislation and supervisory practices. The revision is thus more specifically focused on four types of issuers: those already listed and carrying out secondary issues, SMEs, frequent issuers and those issuing debt securities with a high nominal value (over €100,000).

While it does not revolutionise the prospectus, the planned regulation does include a number of significant steps forward, though some of these will need to be clarified in delegated acts. The following may be highlighted:

- A European “Universal registration document” similar to the French document de référence, providing the market with comprehensive, consolidated annual information

and providing companies with access to a faster approval procedure when they include this document within a prospectus.

- A higher entry threshold of €500,000 (versus €100,000) in the prospectus, while maintaining national rules on disclosures applicable to securities crowdfunding. Member States may lay down a national threshold of between €500,000 and €10 million.
- A complete overhaul of the summary, limited to six pages and linked with the Key Information Document laid down in the PRIIPs Regulation, and greater selectivity of risk factors, with the aim of avoiding certain abuses that make the prospectus more difficult to interpret.
- A new prospectus for SMEs, considering that the current framework has failed to secure the desired success due to it not being sufficiently simplified.
- Modernisation of the rules governing the publication of prospectuses and administrative sanctions.
- Greater use of incorporation by reference and an improvement in the functioning of the base prospectus.

The AMF supports the planned reform but remains vigilant on three topics that are crucial to the provision of appropriate investor information:

**Key dates:**

- > February-May 2015: European Commission public consultation
- > 30 November 2015: publication of the proposed regulation
- > End January 2016: opening of Council negotiations
- > 16 March 2016: publication of the draft report by Philippe de Backer, rapporteur for the ECON committee
- > 19 April 2016: deadline for submitting amendments
- > Review of amendments postponed (initially planned on 24 May 2016)
- > 13 June 2016: ECON committee vote (provisional date)

- The new simplified rules on secondary issues, legitimately intended to avoid duplication of information already published, must also ensure that investors are provided with clearer information on the consequences of the transaction on the issuer's financial position and shareholding structure, particularly when the issue is highly dilutive or intended to fund an acquisition. As such, the simplified prospectus should include items such as a disclosure of capitalisation and indebtedness, a working capital statement and a summary of relevant and recent ongoing information.
- The AMF is very keen that the competent authority of the country where marketing materials are disseminated (i.e. the host Member State for a prospectus covered by a

passport) be able to oversee this documentation, particularly when an offering is marketed to retail investors, since that authority is close to and has an understanding of the pool of investors.

- SMEs listed on a regulated market would no longer be eligible for the simplified prospectus; this represents a backward step relative to the current situation.

In mid-March, Philippe de Backer, rapporteur for the European Parliament's ECON committee<sup>(1)</sup>.

Mr. De Backer has, since then, changed his duties. He resigned from his mandate on the 2nd of May.

(1), presented a draft report which, although ambitious, nevertheless entails certain risks. The AMF has therefore expressed serious reservations on a number of proposed amendments, including in particular the following:

- The free choice for all issuers of the home Member State, which could be the country in which the issuer is listed, would strongly incentivise regulatory arbitrage between regulators and lead to a levelling down of investor protection.
- The considerable widening of the “restricted circle of investors” introduces a broad exemption from the requirement to issue a prospectus that appears to be at odds with the original rationale behind this concept.
- Limiting administrative sanctions to intentional breaches or gross negligence would greatly restrict regulators' powers of sanction and would be inconsistent with the reforms introduced in recent European legislation.

The AMF remains committed to promoting a proportionate and consistent prospectus.

**Glossary:**


- > Passport: a procedure under which a prospectus, once approved by the competent authority in the home Member State, can be distributed throughout the European Union.
- > PRIIPs: Regulation No. 1286/2014 of 26 November 2014 on key information documents for packaged retail and insurance-based investment products.
- > Base prospectus: a prospectus used for 12-month non-equity issue programmes
- > Universal registration document: an optional annual information document that includes the financial statements and is likely to be incorporated, along with the securities note, in a “tripartite” prospectus.

**Read more**

- Request for ESMA technical advice
- Prospectus directive (European Commission website)

[1] Mr. De Backer has, since then, changed his duties. He resigned from his mandate on the 2nd of May.

## ON THE SAME TOPIC

 Subscribe to our alerts and RSS feeds

AMF NEWS RELEASE

ASSET MANAGEMENT

08 February 2022

The AMF proposes measures to promote a wider adoption of liquidity management tools by fund managers



AMF'S EU POSITIONS

EUROPE & INTERNATIONAL

03 February 2022

AMF's response to the European Commission targeted consultation "Listing Act"



NEWS

ASSET MANAGEMENT

09 November 2021

The AMF and the Banque de France publish an update of the inventory of liquidity management tools in French funds



Legal information:

Head of publications: The Executive Director of AMF Communication Directorate. Contact:  
Communication Directorate – Autorité des marchés financiers 17 place de la Bourse – 75082 Paris  
cedex 02