



## Capital Markets Union

### **Consultation on the review of the Prospectus Directive: AFG's response**

AFG considers that prospectuses as a fundamental tool to get basic knowledge on an issuer. They inventory past and present information. However, for investors, even though such information is necessary, it is not sufficient: for its part, financial analysis brings the prospective information that is also essential to make investment choices. It cannot be dissociated from the better information effort that this proposed review of the Prospectus Directive aims at, and we would like to recall here the importance of not jeopardising the way it is funded.

Asset management professionals need clear and exhaustive information on the situation of the companies they may invest in. Even though AFG supports the modernisation of this document, it does not wish as a general principle that its scope should be reduced, with the pretext of an excessive cost for companies, or its content emptied, with the pretext of simplification and modernisation. Moreover, it seems that an issuer resorting for the first time to a public offer or to the market should provide complete and relevant information. The information quality should not suffer from a legitimate concern for simplification, including for SMEs.

These principles underpin the orientation of our responses to this consultation.

*(1) Is the principle, whereby a prospectus is required whenever securities are admitted to trading on a regulated market or offered to the public, still valid?*

Yes in both cases and prospectuses should be subject to the control of national markets authorities. In this way, investors are ensured to receive consistent and comparable information.

*(4) The exemption thresholds in Articles 1(2)(h) and (j), 3(2)(b), (c) and (d), respectively, were initially designed to strike an appropriate balance between investor protection and alleviating the administrative burden on small issuers and small offers. Should these thresholds be adjusted again so that a larger number of offers can be carried out without a prospectus? If yes, to which levels? Please provide reasoning for your answer.*

No, we believe that these thresholds are reasonable, including for new companies entering the market and regardless of the size of the company or the offer.

*(5) Would more harmonisation be beneficial in areas currently left to Member States discretion, such as the flexibility given to Member States to require a prospectus for offers of securities with a total consideration below EUR 5 000 000?*

No, we are not in favour of a reduction of the flexibility given to Member States as this could contribute to some markets losing their qualification as “regulated”, which is an important concept in particular in the context of UCITS.

*(6) Do you see a need for including a wider range of securities in the scope of the Directive than transferable securities as defined in Article 2(1)(a)? Please state your reasons.*

We do not see to which categories of non regulated securities this extension could apply.

*(9) How should Article 4(2)(a) be amended in order to achieve this objective ? Please state your reasons.*

*The 10% threshold should be raised to [enter figure]%*

*The exemption should apply to all secondary issuances of fungible securities, regardless of their proportion with respect to those already issued*

*No amendment*

*Don't know/no opinion*

Yes, if they are new issues of identical and fungible securities, with a reference to the previous prospectus and, if such a new operation takes place in a delay of over 6 months, an update of the data on the activity of the issuer and a publication of any significant fact relating to the latter. Such an update is in line in particular with the regulated information requirement under the Transparency Directive.

*(10) If the exemption for secondary issuances were to be made conditional to a fullblown prospectus having been approved within a certain period of time, which timeframe would be appropriate?*

Yes, but in the case of bonds, it is important that the issuer positions itself in terms of the volume to be issued in order to ensure transparency on the programme that was previously announced.

*(11) Do you think that a prospectus should be required when securities are admitted to trading on an MTF? Please state your reasons.*

The information that third-party investors wish for does not depend on the market on which the issuer has its securities traded. Regardless of the market, prospectuses are required in case of a financial operation, introduction, **listing** or fundraising. An inclusion in the common law of the MTFs that are currently outside the scope of the Transparency Directive would also be welcome.

*(12) Were the scope of the Directive extended to the admission of securities to trading on MTFs, do you think that the proportionate disclosure regime (either amended or unamended) should apply? Please state your reasons.*

Such an extension could be carried out according to a proportionate disclosure regime.

*(15) Do you consider that the system of exemptions granted to issuers of debt securities above a denomination per unit of EUR 100 000 under the Prospectus and Transparency Directives may be detrimental to liquidity in corporate bond markets? If so, what targeted changes could be made to address this without reducing investor protection?*

Yes.

*If you have answered yes, do you think that:  
(a) the EUR100 000 threshold should be lowered?*

Yes, to 10,000 Euros.

*(20) Should the definition of "company with reduced market capitalisation" (Article 2(1)(t)) be aligned with the definition of SME under Article 4(1)(13) of Directive 2014/65/EU by raising the capitalisation limit to EUR 200 000 000?*

We believe that a reference to market capitalisation is not relevant as it continually moves depending on stock market cycles. The economic concept of SMEs – mid-cap companies would be preferable: number of employees under 5,000 and turnover under 1.5 billion Euros or balance sheet under 2 billion Euros. Figures are based on the latest data published in the annual report. These figures should relate to the consolidated accounts of the company itself, independently from the groups they may belong to, such data being public.

*(21) Would you support the creation of a simplified prospectus for SMEs and companies with reduced market capitalisation admitted to trading on an SME growth market, in order to facilitate their access to capital market financing?*

For equities, we are not in favour of a different treatment for SMEs to the extent that this prospectus will very often be the only document that individuals will be able to refer to. Furthermore no minimum size has been set so far for this document.

For bonds, this could be possible, but with an item pledges and covenants.

*(22) Please describe the minimum elements needed of the simplified prospectus for SMEs and companies with reduced market capitalisation admitted to trading on an SME growth market.*

- Detail of the operation, the activity of the company and its market
- Strategy of the company and reasons for the operation
- Risks
- Detailed accounts on the last 2-3 years
- Shareholder base and remuneration policy
- Pledge, definition of covenants, procedure in case of breach of covenants for bond securities

*(27) Is there a need to reassess the rules regarding the summary of the prospectus? (Please provide suggestions in each of the fields you find relevant)*

It could be improved through an introduction on the reasons of the offer and as well contain valuation information.

*(28) For those securities falling under the scope of both the packaged retail and insurance-based investment products (PRIIPS) Regulation, how should the overlap of information required to be disclosed in the key investor document (KID) and in the prospectus summary, be addressed?*

Yes

*(29) Would you support introducing a maximum length to the prospectus? If so, how should such a limit be defined?*

Yes, expressed as a number of characters or pages (60 pages maximum for example) and have clear and standard sections allowing the identification and assessment of the different types of risks, the allocation of the funds raised and the sanctions in case of breach.

*(30) Alternatively, are there specific sections of the prospectus which could be made subject to rules limiting excessive lengths? How should such limitations be spelled out?*

Yes, all of them, and have a clear and defined vocabulary, and a recurrence in the structure and organisation of the prospectus.

*(43) Should the options to publish a prospectus in a printed form and by insertion in a newspaper be suppressed (deletion of Article 14(2)(a) and (b), while retaining Article 14(7), i.e. a paper version could still be obtained upon request and free of charge)?*

Yes for the suppression, however the obligation described in the question should be retained unless a certification has been defined by an official authority with a common reference available to all investors.

*(44) Should a single, integrated EU filing system for all prospectuses produced in the EU be created? Please give your views on the main benefits (added value for issuers and investors) and drawbacks (costs)?*

Yes

\*\*\*\*\*