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Re: Call for evidence - Request for technical advice on possible delegated acts concerning the Prospectus Directive (2003/71/EC) as amended by the Directive 2010/73/EU

Dear Sir, Madam,

We appreciate the opportunity to respond to your Call for Evidence on the European Commission's request for technical advice on possible delegated acts concerning the Prospectus Directive (PD). Please find our views on some of the issues raised.

Format of the final terms

The format of final terms should not be too prescriptive. In practice, the format follows from the content and structure of the base prospectus. The content and order of the required information, as well as security conditions (which are not governed by prospectus requirements) can diverge substantially, which is normally reflected in the final terms. Therefore, we do not feel there should be specific schedules or building blocks for the final terms.

The scope of the final terms regime

We agree that clarity is needed on what constitute "final terms" as opposed to information which requires a new prospectus or a supplement. However, we would stress the importance of retaining flexibility in the regime for base prospectuses. An overly prescriptive approach could substantially devalue base prospectuses as a tool to enable issuers to react to continuously changing market conditions, for which they have been introduced.

The dividing line between the final terms and a prospectus or a supplement should be carefully calibrated. That way it is clear what information can only be determined at the time of an individual issue and should therefore be in the final terms. In particular, it should be possible to include in the final terms variations of the payout formula relevant for the securities in question.

Combining the final terms and the summary

Although we recognise that the Commission is mandating ESMA to advise it on a procedure to combine the summary with relevant parts of the final terms, based on our experience prior to the PD review, we do not think a specific procedure is necessary. This was already possible under the Prospectus Directive before its revision, and some issuers have made use of this possibility in practice.

Additionally, we would stress that the need to amend the prospectus summary by way of final terms should not be restricted to cases where the final terms are presented as a separate self-contained document.

**Contents of the summary**

We agree with the importance of the Directive's requirements for the summary in order to make it accessible to investors. However, we feel that the suggested approach could be interpreted as an attempt to capture the essential characteristics of each individual relevant information item. This could potentially make the summary very long, and it would be difficult to achieve conformity with the Key Investor Information Document (KIID) under the PRIPs initiative. In contrast, we feel it should first be decided which information items need to be in the summary for investors to understand a product.

Different schedules

With regard to creating different schedules and building blocks for the summary, we feel that it would make sense to separate equity from non-equity securities. The content and length of the prospectuses for these categories differs significantly and would have to be reflected in the summaries.

Alignment with PRIPs initiative

Particular care should be taken that the summary is aligned with the KIID under the PRIPs initiative to the greatest extent possible. In particular, the content of the summary should be made either fully or, if this is not possible due to differences in the prescribed information (particularly regarding the description of the issuer), at least partially identical to the content of a KIID. This would allow a completed KIID to be used to provide the summary as well, either unchanged or with the addition of certain further information items.

Retail Cascade

Format and content of the required approval for the use of a prospectus should not be subject to restrictive formal requirements, but be as flexible as possible.

We trust these comments are useful.

Yours sincerely,

Daniel Trinder
Global Head of Regulatory Policy