Response of Deutsches Aktieninstitut to ESMA's Consultation Paper in Regard of ESMA's Technical Advice on Possible Delegated Acts Concerning the Prospectus Directive (2003/71/EC) as Amended by the Directive 2010/73/EU

14 July 2011

Introduction

Deutsches Aktieninstitut e.V. (ID Ref: 38064081304-25) is the association of German exchange-listed stock corporations and other companies and institutions which are engaged in the capital markets development. Its most important tasks include supporting the relevant institutional and legal framework of the German capital market and the development of a harmonised European capital market, enhancing corporate financing in Germany and promoting the acceptance of equity among investors and companies.

A. General Comments

Deutsches Aktieninstitut has appreciated very much the Amending Directive's (2010/73/EU, in the following: AD) main objectives as are increasing efficiency in the prospectus regime, reducing administrative burdens for companies when raising capital in the European securities markets, and enhancing investor protection. Now ESMA has a second chance to promote all of these aims in a balanced way when proposing possible delegated acts.

In our view, an informed investment decision can only be taken if the prospectus as a whole is taken into consideration, though. A summary can only deliver limited content. Investors should not be misguided here. Although the summary is not limited to 2.500 words anymore as the many new recitals dealing with the summary of the Amending Directive do not reflect recital (21) of the Prospectus Directive, the guidance for key information should help, or better: enable issuers or the persons responsible to keep it short. In our view, the summary should give investors a first impression of the securities and help to quickly find out more to each topic by means of reference to information in the rest of the prospectus. More than maybe before the summary should act in a way also as table of contents. Moreover, the more information is duplicated in the summary, the greater is the risk of creating discrepancies which can lead to investor irritation for which the issuer may be held liable. Finally, the more information is given in the summary, the more likely it will be that the investor might think that he can rely on the information given in the summary alone and that he might not read the full prospectus anymore. This, however, can not be the purpose of the summary. If the summary contains too much information, the investor might be mislead and believe he can base his risk analysis on the summary alone. This is valid es-

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pecially before the new wording of Article 5 (5) which does not make it entirely clear whether an issuer can be held liable for the summary alone (which we strictly oppose for the reasons mentioned above).

As asked by ESMA to indicate any material concerns over the impact of the advice being considered, including considerations if it may lead to unfair or disproportionate financial or administrative burden we would like to indicate the following:

Now with the detailed proposals regarding final terms it seem that the aims described above have been forgotten. **In contrast the most important instrument for companies to take advantage of windows of good market conditions and special investor demand when making debt issuances, the base prospectus, will be overruled, in our opinion in a misunderstanding of the Amending Directive and the EU-Commission's mandate that asks for proposals that preserve the flexibility of the base prospectus regime. ESMA's proposals seem to demand a "mini-prospectus" for each issue under a base prospectus because a summary shall be fully completed for the individual issue and be annexed to the final terms. Also, the proposals for the format of the final terms would lead to a major limitation of the use of base prospectuses especially in the context of multi issuer debt programmes: simple variations of debt products, even if they are not material and may therefore be covered by a general description in the base prospectus and its summary, may according to the suggestions no longer be included in final terms.**

Deutsches Aktieninstitut considers the scope of providing guidance for the content of the summary very helpful as this may lead to more legal certainty especially as regards the liability in respect of key information. We would appreciate if ESMA considered this when defining key information. **We do not agree though, that all requirements of the annexes of the Prospectus Regulation is such key information. From there, possible contents for the summary should be chosen very carefully in order to avoid overloading it by duplication. A first check of the proposal for the content of the summary by our members has shown that it would be even longer than before. This may include taking into account if an issuer or guarantor is listed on a regulated market which means ongoing information disclosures that go far beyond what the prospectus regime demands are provided. And this may include a testing which is more material than described by ESMA. We will give examples.**

B. Details

Q1: Do you consider the list of "Additional Information" in Annex B complete? If not, please indicate what type of information could be classified as "Additional Information" and to what item they would belong to (CAT A, CAT B or CAT C, as defined in Part 3.III). Please add your justifications.

We agree that in final terms there has to be additional information which is not technically part of the securities note, but materially belongs to it, like the name of the issuer. It should be made clear by ESMA, though, if such in-

formation is a repetition of information in the base prospectus which would be the case for the name of the issuer: No legal uncertainty should be left in this respect.

It should be considered that also the following is such "additional information":

- Country specific information which can be relevant for the offer of particular securities in a specific country
- Inducements paid to distributors which issuers disclose to further enhance transparency for investors.
- Any other product specific information like risk factors that may have impact on the assessment of the securities from an investor perspective.

Q2: As for the "additional provisions, not required by the relevant securities note, relating to the underlying", please provide the information which could fall under this item.

No answer.

Q3: Under "CAT. B" items, is the list of details which can be filled out in the final terms complete? If not, please indicate with your justifications what elements should be added.

ESMA's proposals for the format of the final terms will lead to a major limitation of the use of base prospectuses especially in the context of multi issuer debt programmes. Base prospectuses are – as stated in the introductory remarks – the essential instrument for companies to take advantage of windows of good market conditions and special investor demand, so it is most important to preserve the flexibility of the base prospectus regime.

No. 51-54: ESMA is of the opinion that redemption and settlement procedure of the derivative and so effect of the underlying asset on the investment and risk factors associated with the issue shall be laid down in the base prospectus.

On the other hand, the possible content of final terms is based on information available only by the time of the issue. We are of the opinion that ESMA's view that authorities are obliged "to review algebraic formulas along with (...) related definitions and descriptions as regards (...) completeness, comprehensibility and consistency" (p. 17) cannot overrule this basic principle for the use of final terms in a way that even if such information can only be provided at the time of issuance it cannot be included in final terms. This would, by nature, exclude some financial instruments from the reasonable use of the base prospectus regime. Until now it was possible to issue e.g. index linked financial instruments under a base prospectus. This does not make sense anymore if changes to the index in a later issue have to be supplemented to the base prospectus. Also, simple variations of e.g. debt products that are not material for the evaluation of key information and risks described in the base prospectuses due to later market demand should not be seen as new products and be allowed to be included in final terms.

Also, integrated terms and conditions should not be restricted in final terms as it enables investors to read the full (integrated) text of the terms and con-

dition in one document and not necessarily the long form terms and conditions as outlined in the base prospectus together with an "election style" form of the final terms. Especially for retail investors it is advantageous to have the legal terms applicable to the issuance in one document only. There is a well established practice in the European market.

The proposals would restrict issuers from including different debt products in one base prospectus which would lead to the necessity to have many "specialized" base prospectuses, each covering different variations of debt products. The alternative to provide supplements for variations of debt products is not only burdensome but causes the problem that each such supplement triggers a withdrawal right pursuant to Article 16 (No. 63).

Q4: Based on the instructions given in this document, could you please estimate the increase of the number of supplements to be approved in per cent?

The categorisation of possible final terms content seems rather complicated and is in our view not always led by the principle that some information on the issue just cannot be determined by the time of approval, or that supplements are now generally given a priority. As stated above, the new clarification could lead to special prospectuses which would only be useful for some issues under a programme.

This was not the kind of guidance that issuers had hoped to get in order to achieve more legal security. In point 63 ESMA sees the problem that the PD would have to be amended again so that the supplement in regard to one issue would not lead to the right to withdraw for investors for all issues under the base prospectus which would open the door for abuse!

There will be a loss of flexibility which the base prospectus regime was intended to provide and increased liability. So, a lot more specialised base prospectuses will have to be set up in order to avoid this (please see also our answer to Q3).

Q5: Based on the instructions given in this document, could you estimate the increase of the relevant costs?

Under the new approach regarding final terms for every issue additional time and internal resources for documentary efforts and internal or external legal advice would be required which would lead to relevant additional costs. The decreased flexibility in use of market conditions and the increased withdrawal opportunities would lead to unpredictably high costs.

In order to avoid withdrawal rights due to supplements more specialised base prospectuses would have to be set up.

Q6: Do you agree with the proposed mechanism of combining the summary with the final terms? If not, please provide your reasons and an alternative suggestion.

Deutsches Aktieninstitut appreciates the co-legislators' aims to improve the summary of the prospectus. It is important especially for retail investors to grasp the significance of a possible investment via a short description of the securities and to be able to easily compare different securities. DAI sees a lot of problems, though, which are referred to in the response.

DAI has also appreciated the aim to clarify what kind of new information may be included in final terms or in a supplement. However, ESMA should carefully take into account that the requirement to issue a supplement has the consequence that the investors may withdraw their acceptances according to Art. 16 (2) regardless of the materiality of the new or corrected information. The economic risks are shifted unilaterally to the issuer. This jeopardises the market access.

Deutsches Aktieninstitut is concerned about the new approach regarding base prospectuses and final terms and wonders if there has been an abuse of the base prospectus regime amongst bond issuers who would be deeply affected.

ESMA's proposals seem to demand a "mini-prospectus" for each issue under a base prospectus because a summary shall be fully completed for the individual issue and be annexed to the final terms. We strongly oppose this idea. We agree with ESMA's finding that Article 5 (4) of the Prospectus Directive (2003771/EC, in the following PD) as amended by the AD and Article 22 (4) of the Prospectus Regulation provide that final terms shall only contain information that relates to the security note and some additional information (please see our answer to Q1). We do not see that completing a summary for the individual issue was intended by the Amending Directive. In the discussions concerning that Directive it had been acknowledged that base prospectuses of course can only contain information that is "knowable" at the time of the approval and not contain details of the issues to come later. In contrast ESMA is asked for suggestions preserving the flexibility of the base prospectus regime (cited on p. 9 of consultation paper).

The idea behind base prospectuses is their flexibility. If a summary has to be drawn up for the issue maybe in another language than the final terms ad hoc issues in order to take advantage of windows of good market conditions that can be only hours are not possible anymore.

Recital 17 of the AD states that "[....] Furthermore, in order to fulfil the obligation to provide key information also under a base prospectus, issuers should combine the summary with relevant parts of final terms in a way that is easily accessible to investors. No separate approval should be required in those cases". This does not mean that the summary has to be completed for the individual issue and annexed to the final terms. Also, neither PD nor AD speak of "summaries" to one base prospectus, only "summary". Such summary may be up to date only until another issue has been done, maybe at the same day. Does ESMA so demand several summaries, or does the one just amended have to be amended once more? What happens if there are two issues at the same time? ESMA gives the main argument and legal basis against this scope. In regard to replicating information of the base prospectus in final terms ESMA is of the opinion that final terms should not be used as a kind of short form prospectus. On the other hand ESMA now requires a full summary for each issue which is only valid for this issue (!) and together with the final terms finally also would build a new kind of "mini prospectus" as a stand alone securities and issuer overview!

The rules expressing this idea have not been changed and ESMA's proposals are changing the scope of base prospectuses dramatically in a way that only

European legislators may. In our reading, ESMA has no mandate to demand summaries for each issue under a base prospectus.

We also like to hint to Recital 4 of the AD which intends to enhance the international competitiveness of the EU. In our view, the opposite is going to be achieved under the described new summary approach for final terms.

We would propose to disclose the summary (again) together with final terms.

Q7: Please estimate any possible costs that this mechanism would imply for issuers.

Under the new approach additional time, internal resources for documentary efforts, internal or external legal advice and translation services would be required which would lead to relevant additional costs. We estimate a minimum of 20.000 EUR per issue under a base prospectus depending on the complexity of the product (yearly update of an existing debt issuance programme right now: at least 80.000 EUR independent from the volume of the individual bond issue, so also for SMEs). The decreased flexibility in use of market conditions (taking into account compliance requirements and blackout periods) would lead to unpredictably high costs and higher market access and availability risks.

Q8: Do you agree with our modular approach?

Yes. When proposing for example building blocks for the summary of prospectuses ESMA should take into account the variety of different financial instruments and their complexity. For summaries at least in Germany a common and well accepted market practice has developed that Deutsches Aktieninstitut would invite ESMA to consider.

In the summary, references to certain parts of the prospectus should be allowed. We understand that Article 11(1) of the Amending Directive does not allow incorporation of contents, but this does not include hinting to relevant parts of the prospectus. Why should investors need to search in order to receive more information? From our point of view, it would help investors if the summary also functioned in a way also like a table of content. This would also show investors while reading the text of the summary (besides the warning that it should be read as an introduction to the prospectus) that they should deepen the study of the document.

Deutsches Aktieninstitut is of the opinion that a comparison of totally different securities via the new summary regime is quite impossible to achieve. ESMA should take that into account.

Q9: Do you agree with our approach of identifying the mandatory key information to be contained within five sections?

We basically agree with the approach of five sections. We do not consider the idea of fixed point numbers of which some have to be omitted in the summary if they are not applicable helpful for investors, though. This may be rather confusing to them.

Also, considering multi issuer debt programmes and base prospectuses, ESMA's proposals sometimes can only be fulfilled in an additional summary

that ESMA proposes for each issue under the base prospectus, an approach which we strongly oppose (please see also our answer to Q6, 12a).

Q10: Do you agree that we have provided sufficient flexibility for issuers and their advisers in drafting summaries – whilst ensuring that summaries are brief and provide the reader with the necessary comparability between prospectuses?

Deutsches Aktieninstitut considers the scope of providing guidance for the content of the summary very helpful as this may lead to more legal certainty especially as regards the liability in respect of key information. So, we agree that "other information" should not be allowed.

Q11a: Do you agree that our approach adequately limits the length of summaries?

Deutsches Aktieninstitut considers a strict limit not necessary at all. It is the vested interest of issuers to keep the summary as short as possible. However the lengths depends on the size and complexity of the issuers, the guarantor and the products. We therefore strongly recommend no limit, rather guidance on the necessary content. If ESMA finds it necessary to limit the summary we consider a limit based on a percentage of the words or pages of the main body of the prospectus as a good proposal as a fixed limit does not allow for flexibility.

Q11b: What is "short" for a summary for: (i) an issuer; & (ii) an investor?

In our view, the summary should give investors a first impression of the securities and help to quickly find out more to each topic by means of reference to information in the rest of the prospectus. More than maybe before the summary should act in a way as table of contents.

This would allow short summaries of some pages and give guidance for investors where to find more information on issues that are of crucial interest for them.

Q11c: Do you think that there should be a numeric limit on the length of summaries? If so how might that be done?

No.

Q12a: Do you agree with our proposed content and format for summaries?

99, 100. We absolutely do not understand why ESMA proposes a fresh assessment for the summary and so proposes not to "simply" copy out boilerplates from the rest of the text and demands a writing like a letter from the chair. A summary is not a piece of advertise or lyric. Summaries are part of the liability regime and changes in a few words can lead to different interpretations. Also, once approved declarations on certain topics in financial market communication must not be changed in wording. Capital market communication has to be consistent. So, where new wording can be avoided, it is avoided.

When it comes to reducing administrative burdens it should be considered if an issuer or guarantor is subject to the ongoing disclosure obligations under Directives 2004/109/EC and 2003/6/EC. The Amending Directive calls for

clarification of the links between Directive 2003/71/EC and Directives 2003/6/EC and 2004/109/EC in Article 4. Already the delegated acts can help to take the special transparency of such issuers into account under the current regime. Debt issuances should not be forgotten in this context. Deutsches Aktieninstitut would like to stress the fact that the debt market has a volume that outweighs the equity market by far.

103. ESMA considers that the test for whether information should be in a summary is not the same as the test for whether information should be in the prospectus.

This cannot mean, though, that additional information not contained in the prospectus shall in some cases be included in summaries. For some suggestions the scope of the summary is even wider than in the Prospectus Regulation: in 12.1 and 12.2 of Annex I the most significant recent trends in production, sales and inventory, and costs and selling prices since the end of the last financial year to the date of the registration document is to be disclosed. Information on any known trends, uncertainties, demands, commitments or events that are reasonably likely to have a material effect on the issuer's prospects for at least the current financial year should be inserted. The proposal for the summary does not contain the above underlined constraints. Also for trends of general knowledge like "climate change" they should only have to be mentioned if they have potential impact on the issuer and key words should be enough in the summary.

Given this test principle of ESMA described above we wonder why basically all annexes of the Prospectus Regulation have been inserted in the summary proposal as key information. From there, possible contents for the summary should be chosen very carefully in order to avoid overloading it. This may include taking into account if an issuer or guarantor is listed on a regulated market which means ongoing information disclosures that go far beyond what the prospectus regime demands are provided. And this may include more courage:

For example, in B.6 ESMA demands disclosure of major shareholders. Please be aware that reports of significant shareholdings can be very long, due to a number of companies holding the share indirectly in a chain of control. As one of these shareholding reports alone can be longer than one page, issuers must at least have the opportunity to abbreviate them in the summary (please find an example in the annex). Considering the request for a key information test, for a short check in summaries for investors it would be of interest if there are controlling shareholders or shareholdings around 30 % in order to estimate any take over chances that can affect the share price. For the rest they can consult the main body of the prospectus.

For B.9 profit forecast please see our answer to Q.13.

For "Section E – Offer" we see the problem that most of the required information can hardly be provided in a base prospectus. It seems that Section E can only be fulfilled in an additional summary that ESMA proposes for each issue under the base prospectus, an approach which we strongly oppose (please see also our answer to Q6).

E.1 and E.7 Estimated expenses: The total expenses charged to the investor usually cannot be estimated by the issuer. The issuer is able to inform on its own total expenses of the issue in the primary market, which should strictly end in the view of the issuer by selling the securities to financial intermediaries. Issuers may also inform in the prospectus about the (abstract!) fact that additional costs may be charged to the investors by financial intermediaries etc. But issuers cannot inform on the concrete expenses charged by financial intermediaries, brokers etc, because they are not subject to an agreement between issuers and resellers, and they cannot inform on a secondary market price. Such obligations have to be strictly refused here. This is, by the way, one of the reasons why it is so important to define "primary" and secondary market" as intended in Article 4 of the Amending Directive. Therefore, when issuers draw up a prospectus, they shall only be obliged to inform on expenses they are in control of. We had hoped to get more guidance here taking into account the strict separation of primary and secondary market.

These few examples show that the content of the summary should be considered further in a market consultation. The time limit set for comments was too short for a full analysis.

Q12b: Are there other pieces of information which should appear in summaries? and are there disclosure requirements in our tables which are not needed for summaries?

Please see our answer to Q12.

Q13: Is there a need to augment Point B.9 with additional disclosure requirements, such as key assumptions, or to state that the forecast is reported on in the main body of the prospectus?

No. No additional disclosure is needed.

According to the current practice for debt issues we consider profit forecasts not to be required neither for prospectuses nor summaries. The ability to meet financial obligations which is of crucial interest for bond investors depends on other factors. So, also for the summary this is no key information.

In ESMA's Call for Evidence (4. Review of the provisions of the Prospectus Regulation (Articles 5 and 7)) it reflected about changes of the Prospectus Regulation concerning profit forecasts:

"Profit forecasts or estimates (Items 13.2 of Annexes I and X, 9.2 of Annex IV, and 8.2 of Annex XI) should be currently accompanied by a report prepared by independent accountants or auditors stating that in the opinion of the independent accountants or auditors the forecast or estimate has been properly compiled on the basis stated and that the basis of accounting used for the profit forecast or estimate is consistent with the accounting policies of the issuer. ESMA is invited to consider the effects of repealing such requirement given that market announcements are usually issued in advance of the related financial results being finalized."

Deutsches Aktieninstitut proposes that such reports by auditors should not be required at all. They lead to additional effort and expenses for the issuer and reduce flexibility. Profit forecasts are generally part of the annual report of the issuer. So they are subject to the audit certificate. If the forecasts have not

changed, no additional assurance is achieved for investors. If the forecast changes in a significant way, for securities listed on a regulated market an ad hoc disclosure might be necessary. For such secondary market disclosures there is no report by an auditor required either, even though the information is not less important.

Q14: Do you agree with our proposal for amending Article 3, 3rd paragraph, Prospectus Regulation?

No. Although summaries are an important part of the prospectus, authorities should concentrate on information in the main body. Additional information there may lead to amendments of summaries anyway. A balance has to be found between information requirements and an effective approval procedure.

Also, there would be a contradiction to Recital 17 of the AD which as mentioned before states that "Furthermore, in order to fulfil the obligation to provide key information also under a base prospectus, issuers should combine the summary with relevant parts of final terms in a way that is easily accessible to investors. No separate approval should be required in those cases".

Q15: Could you estimate the change in costs that will arise from the proposals in this document for summaries?

The new proposal will lead to the need of additional time, bind internal resources for documentary efforts, require internal or external legal advice which will lead to relevant additional costs.

Q16: Do you agree with the proposal to consider that "near identical rights" should have the same characteristics than pre-emption rights? Do you agree with the definition given in paragraph 117? Are there any other characteristics which should be taken into account?

Yes. Please note: Proposal to amend ESMA number 117: 3rd bullet point should also allow for rights (not only shares) to be sold in favour of the existing shareholders.

Q17: Do you agree that there should be only one single proportionate regime and not two separate regimes, one for regulated markets and one for MTFs?

Yes.

Q18: Do you agree with the proposal to consider that appropriate disclosures requirements for MTFs would include, as a minimum, obligations to publish:

- annual financial statements and audit reports within 6 months after the end of each financial year,

- half-yearly financial statements within a limited deadline after the end of the first six months of each financial year, and

- inside information?

Yes.

Q19: What should be the maximum deadline for publishing half-yearly financial statements?

Four Months.

Q20: For issuers listed on MTFs where there is no disclosure requirements on board practices and remuneration, do you agree that this information should be included in the prospectus?

If secondary market regulation does not consider this to be of such importance that it should be regulated, the primary market regime should not invent it. In our opinion there should be differences regarding requirements in regulated and unregulated markets because the latter is an instrument for small and midcap companies.

Also, this depends on the financial instrument as this e.g. is not of relevance for debt issuances.

Q21: Are there any other disclosure requirements not listed above which should be required for MTFs?

No.

Q22: Regarding the appropriate rules on market abuse, do you agree that there should be provisions in order to prevent insider trading and market manipulation? Do you consider it necessary to require that the rules of the MTFs fully comply with the provisions of the Market Abuse Directive?

Yes.

Q23: Are there any other EU Directive or Regulation not listed in paragraph 122 which should be taken into account?

No.

Q24: As regards MTFs with appropriate disclosure requirements and market abuse rules, do you agree that in order to benefit from the proportionate prospectus, issuers should be required to make available their periodic and ongoing disclosures in a way that facilitates access to information by posting them on their websites?

Yes. The kind of disclosures should be detailed, though.

Q25: Do you agree with the approach proposed in order to determine which items to delete from Annexes I and III of the Prospectus Regulation?

When it comes to reducing administrative burdens it should be considered if an issuer is subject to the ongoing disclosure obligations under the Directives mentioned in point 122. The Amending Directive calls for clarification of the links between Directive 2003/71/EC and Directives 2003/6/EC and 2004/109/EC in Article 4. Already the delegated acts can help to take the special transparency of such issuers into account under the current regime. Therefore, all information disclosed already under the said regime should not have to be inserted into the prospectus.

As investors taking part in rights issues are in a situation comparable to an investor buying shares in the secondary market, the prospectus requirements should focus on the description of the shares and the subscription rights. The issuer description should be further limited to a minimum of information necessary to update the information already publicly available.

Q26: Do you agree with the proposed items which could be deleted from Annex I (Minimum Disclosure Requirements for the Share Registration Document) and Annex III (Minimum Disclosure Requirements for the Share Securities Note) of the Prospectus Regulation?

Please note our answer to Q25: The issuer description should be further limited to a minimum of information necessary to update the information already publicly available.

Q27: Do you consider that the language regime could be a concern in terms of investor protection in case of passporting? Do you consider that the proportionate disclosure regime should be conditional upon compliance with the language requirements of Article 19 of the Prospectus Directive?

We are not concerned. As ESMA stated already in number 126 that "rights issues are addressed to existing shareholders who have already invested in the issuer and are aware of the language regime applicable to the company."

Q28: In case of issuers listed on regulated markets, do you consider that disclosures on remunerations required by item 15 of Annex I of the Prospectus Regulation are redundant with information already made available to shareholders and the public in general and could therefore be deleted from the proportionate prospectus for rights issues?

Yes.

Q29: Considering the objective to enhance investor protection, do you agree that information regarding the issuer's activities and markets and historical financial information can not be omitted?

No. Please see our answer to Q25: All information disclosed already under the secondary market directives regime should not have to be inserted into the prospectus. We think that this information is contained in the financial reports already.

Q30: Do you consider that, in order to reduce administrative burden, incorporation by reference could be a solution? Do you have any suggestions to improve the incorporation mechanism?

Yes. It should be clarified that any financial statement made public in accordance with the Transparency Directive, can be incorporated by reference. So far, the German regulator only allows for such an incorporation, if the financial statements have been used in a previously approved prospectus or a registration statement. This requirement has hindered in the past the incorporation by reference.

Q31: Do you agree with the proposals to require basic and updated information regarding the issuer's principal activities and markets?

No. Please see our answer to Q29.

Q32: Do you agree with the proposal to require only the issuer's historical financial information relating to the last financial year?

No, please see our answers to Q 25 and Q26 above. If this cannot be followed, even this information should be incorporated by reference.

Q33: Do you agree with the proposal to redraft certain items of Annexes I and III of the Prospectus Regulation as proposed in paragraphs 132 to 134? Are there any other items which should be redrafted?

Please see our answers to Q 25 and Q26 above.

Q34: Do you agree with the proposal to include a statement in the proportionate prospectus drawing attention to the specific regime and level of disclosure applicable to rights issues?

Yes.

Q35: Do you agree with the schedule for rights issues presented in Annex 2 of this consultation paper?

Please see our answers to Q 25 and Q26 above.

Q36: What are the costs for drawing up a full prospectus? What are the most burdensome disclosure requirements? Can you provide any data? Can you assess the costs that the proposed proportionate prospectus will allow issuers to save? Proportionate disclosure regime regarding SMEs and issuers with reduced market capitalisation.

Cost of a full scale prospectus: at least 500,000 Euro. Thereof 80% for issuer description (Annex 1). A proportionate Annex 1 as proposed by ESMA would reduce the costs for the issuer description by approximately 20-30%.

Annex: Example of a Voting Rights Announcement

VOTING RIGHTS ANNOUNCEMENT

Allianz SE: Release according to Article 26, Section 1 of the WpHG [the German Securities Trading Act] with the objective of Europe-wide distribution

Allianz SE
05.04.2011 11:09
Dissemination of a Voting Rights Announcement, transmitted by
DGAP - a company of EquityStory AG.
The issuer is solely responsible for the content of this announcement.

On April 04, 2011 BlackRock, Inc., New York, USA informed us:
1. Pursuant to Section 21 Paragraph 1 WpHG the percentage holding of the voting rights of BlackRock, Inc., New York, USA in Allianz SE, Munich, Germany have fallen below the threshold of 5% on 29.03.2011 and amounts to 4.96% (22,527,683 voting shares) on that day. All of the voting rights are attributable to BlackRock, Inc. pursuant to Section 22 Paragraph 1 Sentence 1 N 6 in connection with sent. 2 WpHG.
2. Pursuant to Sections 21 Paragraph 1 and 24 WpHG the percentage holdingof the voting rights of BlackRock Holdco 2, Inc., Wilmington, Delaware, USA, in Allianz SE, Munich, Germany has fallen below the threshold of 5% on 29.03.2011 and amounts to 4.78% (21,736,508 voting shares) on that day. All of the voting rights are attributable to BlackRock Holco 2, Inc. pursuant to Section 22 Paragraph 1 Sentence 1 N 6 inconnection with sent. 2 WpHG.
3. Pursuant to Sections 21 Paragraph 1 and 24 WpHG the percentage holding of the voting rights of BlackRock Financial Management, Inc., New York, USA in Allianz SE, Munich, Germany has fallen below the threshold of 5% on 29.03.2011 and amounts to 4.78% (21,736,508 voting shares) on that day. All of the voting rights are attributable to BlackRock Financial Management, Inc. pursuant to Section 22 Paragraph 1 Sentence 1 N 6 in connection with sent. 2 WpHG.
05.04.2011 DGAP's Distribution Services include Regulatory Announcements, Financial/Corporate News and Press Releases.
Media archive at www.dgap-medientreff.de and www.dgap.de

Language:	English
Company:	Allianz SE Königinstr. 28 80802 München Deutschland
Internet:	www.allianz.com

VOTING RIGHTS ANNOUNCEMENT

Allianz SE: Release according to Article 26, Section 1 of the WpHG [the German Securities Trading Act]

Allianz SE / Release of an announcement according to Article 21, Section 1 of the WpHG [the German Securities Trading Act] (share)
10.06.2010 10:51

On June 8, 2010 BlackRock, Inc., New York, USA informed us:

1. Pursuant to Section 21 Paragraph 1 WpHG the percentage holding of the voting rights of BlackRock, Inc., New York, USA in Allianz SE, Munich, Germany have fallen below the threshold of 5% on 04.06.2010 and amounts to 4.85% (22,032,677 voting shares) on that day.
All of the voting rights are attributable to BlackRock, Inc. pursuant to Section 22 Paragraph 1 Sentence 1 N 6 in connection with sent. 2 WpHG.
2. Pursuant to Sections 21 Paragraph 1 and 24 WpHG the percentage holding of the voting rights of BlackRock Holdco 2, Inc. Wilmington, Delaware, USA in Allianz SE, Munich, Germany have fallen below the threshold of 5% on 04.06.2010 and amounts to 4.68% (21,223,563 voting shares) on that day.
All of the voting rights are attributable to BlackRock Holdco 2, Inc. pursuant to Section 22 Paragraph 1 Sentence 1 N 6 in connection with sent. 2 WpHG.
3. Pursuant to Sections 21 Paragraph 1 and 24 WpHG the percentage holding of the voting rights of BlackRock Financial Management, Inc., New York, USA in Allianz SE, Munich, Germany have fallen below the threshold of 5% on 04.06.2010 and amounts to 4.68% (21,223,563 voting shares) on that day.
All of the voting rights are attributable to BlackRock Financial Management, Inc. pursuant to Section 22 Paragraph 1 Sentence 1 N 6 in connection with sent. 2 WpHG.
4. Pursuant to Sections 21 Paragraph 1 and 24 WpHG the percentage holding of the voting rights of BlackRock Advisors Holdings , Inc., New York, USA in Allianz SE, Munich, Germany have fallen below the threshold of 3% on 04.06.2010 and amounts to 2.80% (12,688,775 voting shares) on that day.
All of the voting rights are attributable to BlackRock Advisors Holding, Inc. pursuant to Section 22 Paragraph 1 Sentence 1 N 6 in connection with sent. 2 WpHG.
5. Pursuant to Sections 21 Paragraph 1 and 24 WpHG the percentage holding of the voting rights of BlackRock International Holdings, Inc., New York, USA in Allianz SE, Munich, Germany have fallen below the threshold of 3% on 04.06.2010 and amounts to 2.76% (12,538,556 voting shares) on that day.
All of the voting rights are attributable to BlackRock International Holdings, Inc. pursuant to Section 22 Paragraph 1 Sentence 1 N 6 in connection with sent. 2 WpHG.
6. Pursuant to Sections 21 Paragraph 1 and 24 WpHG the percentage holding of the voting rights of BR Jersey International Holdings L.P., St. Helier, Jersey , Channel Islands in Allianz SE, Munich, Germany exceeded the threshold of 3% on 04.06.2010 and amounts to 2.76% (12,538,556 voting shares) on that day.
All of the voting rights are attributable to BR Jersey International Holdings L.P. pursuant to Section 22 Paragraph 1 Sentence 1 N 6 in connection with sent. 2 WpHG.

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