

## **Level 2 Implementing Measures - Addendum**

Representing the entire Austrian Credit Industry the bank and insurance division of the Austrian Economic Chamber would like to comment as follows on the Addendum to the Consultation Paper:

### Part One - Registration Document Debt Securities

15. It should be considered carefully whether planned but not yet realised investments shall be disclosed. In any case exception shall be made if the parties have agreed to nondisclosure clauses.

16. Only events with predictable outcome shall be disclosed.

22. No.

23. Only events with predictable outcome shall be disclosed.

27. No.

28. Both are not necessary.

### Securities issued by Banks

43. We do not consider it necessary, since banks are under close regulatory control.

45.

- a) I.B.2: Neither legal requirement according to Austrian Stock Exchange Act nor really necessary in our opinion since disclosure could in some cases lead to negative effect of stock quotation.
- b) II. Risk Factors: Neither legal requirement according to Austrian Stock Exchange Act nor really necessary since it is legally already required to describe the market and special events which influenced it in the past.
- c) V.A.1: Only the data of those persons like members of the board which can be held liable for statements published in the prospectus shall be disclosed.
- d) V.B: Not necessary; In any case exception shall be made if nondisclosure clauses have been negotiated.
- e) VI.B Generally: Data provided by the annual financial statements shall be object to disclosure.

- VI.B 2.: Only transactions to which the parties have agreed by contract and will be executed shall be disclosed.
- f) VII.H.1: The required period should be extended to 18 months as regulated in the Austrian Stock Exchange Act.
- g) VIII.B: No since too broad disclosure obligation.
- h) VIII.C: Documents on display should be limited to the Annual Report which contains reports of members of the board as well as board of directors and financial data of the annual financial statement anyway. Publication of Material Contracts means risk of forgery and can lead to conflict with nondisclosure clauses.
46. Only transactions to which the parties have agreed by contract and will be executed shall be disclosed.
44. Solvency ratios have to be reported to the supervisory authority anyway. That is why it seems not to be justified since banks are under close regulatory control.
51. No, not really.
55. We agree with CESR.

#### Guaranties

If Guaranties don't have to be disclosed in Annual Statements according to IAS Regulation disclosure shouldn't be required.

*The following comments refer to Part 4 - BASE  
PROSPECTUS/PROGRAMMS (para 169 - 176)*

**1. The following disclosures from the SN are appropriate as part of the final terms:**

<b>ANNEX L</b>
<b>II. OFFER STATISTICS AND EXPECTED TIMETABLE</b>
<b>II. A Offer Statistics</b>
Total amount of the issue/offer
<b>V. OFFER AND ADMISSION TO TRADING DETAILS</b>
<b>V. A Description of the securities to be offered/admitted to trading</b>
1. Describe the type and the class of the securities being offered and/or admitted to trading.
3. Indicate whether the securities are registered or bearer ones.

4. Indicate the currency of the securities issue.
10. The issue date of the securities.
<p>13. Interest rate</p> <p>The nominal interest rate and provisions relating to interest payable, if any.</p> <p>Where the rate is not fixed, the index or variable on which it is based and the method used to relate the two must be clearly described. Among other things, this point must include:</p> <ul style="list-style-type: none"> <li>- The formal or official name of the reference rate or of the source entity</li> </ul>
<p>15. Period of the loan and any interim due dates</p> <ul style="list-style-type: none"> <li>- Maturity date</li> </ul>
<b>V. C Plan of distribution</b>
4. The names and addresses of the entities underwriting the offering.
<b>V. E Pricing</b>
1. Indicate the expected price at which the securities will be offered or the method of determining the price, and the amount of any expenses specifically charged to the subscriber or purchaser.
3. Settlement date
<b>V. I Expense of the Issue/Offer</b>
1. The total amount of the discounts or commissions agreed upon by the underwriters or other placement or selling agents and the company or offeror shall be disclosed, as well as the percentage such commissions represent of the total amount of the offering and the amount of discounts or commissions per security.

**2. Further disclosure which would be appropriate as final terms:**

- Issuer
- Guarantor (if applicable)
- Lead Manager
- Principal Paying Agent
- Denominations
- Redemption
- ISIN number
- Stabilization
- Selling Restrictions

**3. The following disclosures from the SN should not be part of the final terms:**

<b>ANNEX L</b>
<b>II. OFFER STATISTICS AND EXPECTED TIMETABLE</b>
<b>II. B Method and expected timetable</b>
1. The time period during which the offer will be open and where and to whom purchase or subscription applications shall be addressed.
2. Describe whether the purchase period may be extended or shortened and the manner and duration of possible extensions or possible early closure or shortening of this period. Describe the manner in which the latter shall be made public.
3. Describe the possibility to reduce subscription and/or size.
4. If the exact dates are not known when the document is first filed or distributed to public, describe arrangements for announcing the final or definitive date or period.
5. Indication of when, and under what circumstances, the offer may be revoked or suspended and whether revocation can occur after dealing has begun.
6. Method and time limits for paying up securities; where payment is partial, the manner and dates on which amounts due are to be paid.
7. Method and time limits for delivery of the securities (including provisional certificates, if applicable) to subscribers or purchasers.
8. A full description of the manner and date in which results of the distribution of securities are to be made public and when appropriate, the manner for refunding excess amounts paid by applicants (including whether interest will be paid).
<b>V. OFFER AND ADMISSION TO TRADING DETAILS</b>
<b>V. A Description of the securities to be offered/admitted to trading</b>
<p>13. - Place, manner and time where and when the reference rate or index is announced and made public</p> <p>- If applicable minimum and maximum limits permitted as yield or interest to be paid to the holders</p> <p>- Information shall be given concerning the values reached by the reference index or rate over the prior year to the date of the prospectus and the interest rates that would have been applied to the issue pursuant to the variable interest clause by virtue of the said values.</p> <p>- The date from which interest becomes payable and the due dates for interest;</p> <p>- The time limit on the validity of claims to interest and repayment of principal.</p>

16. An indication of yield. The method whereby that yield is calculated shall be described in summary form. The annual equivalent rate must be indicated.
18. Representation of debt security holders, if any. Organization of trustees or of any other representation for the body of debt security holders. Main provisions relating to the meeting of note holders. Name and function and description and head office of the representative of the debt security holders, the main conditions of such representation and in particular the conditions under which the representative may be replaced. Indication of where the public may have access to the contracts relating to these forms of representation.
<b>V. B Terms and conditions of the offer and action required to apply for the offer</b>
1. Description of the application process, details of where application forms are available.
3. Process for notification to applicants of the amount allotted and indication whether dealing may begin before notification is made.
4. Possibility of multiple and/or joint applications, and description of the penalties for infringements.
6. Dealing conditions to which the offering is subject, if any.
<b>V. C Plan of distribution</b>
1. The various categories of potential investors to which the securities are offered. If the offering is being made simultaneously in the markets of two or more countries and if a <i>tranche</i> has been or is being reserved for certain of these, indicate any such <i>tranche</i> .
2. If securities are reserved for allocation to any group of targeted investors, including, for example, offerings to existing shareholders, directors, or employees or past employees of the company or its subsidiaries, provide details of these and any other preferential arrangements.
3. To the extent known to the company, indicate whether major shareholders, directors or members of the company's management, supervisory or administrative bodies intended to subscribe in the offering, or whether any person intends to subscribe for more than five per cent of the offering.
5. If the securities are to be offered through the selling efforts of brokers or dealers, describe the plan of distribution and the terms of any agreement or understanding with such entities. If known, identify the brokers or dealers that will participate in the offering and state the amount to be offered through each.
6. Unless otherwise described under the response to item X.C Material Contracts, describe the features of

<p>underwriting relationships together with the amount of securities being underwritten by each underwriter in privity of contract with the company or selling persons. The foregoing information should include a statement as to whether the underwriters are or will be committed to take and to pay for all of the securities if any are taken, or whether it is an agency or the type of best efforts arrangement under which the underwriters are required to take and to pay for only such securities as they may sell to the public.</p>
<b>V. F Admission to trading and Dealing arrangements</b>
<p>1. An indication as to whether the securities offered will be the object of an application for admission to trading, with a view to their distribution in a regulated market or other markets. This circumstance must be mentioned, without creating the impression that the admission to trading necessarily will be approved. Indication as to whether the issuer has already filed the application to trading, and, otherwise, indication of the dates when the issuer has the intention to file this application, and, if known, the earliest dates on which the securities will be admitted to trading should be given. An indication of the markets where admission to trading is or will be sought, and if securities of the same class are already traded on one more regulated markets, indication of the most relevant.</p>
<p>2. If simultaneously or almost simultaneously with the creation of the securities for which admission to a regulated market is being sought securities of the same class are subscribed for or placed privately or if securities of other classes are created for public or private placing, details are to be given of the nature of such operations and of the number and characteristics of the securities to which they relate.</p>
<p>3. Entities which may act as intermediaries in secondary trading, providing liquidity through bid and offer rates. If any, A description of the terms of their commitment will be included.</p>
<b>V. H Selling securities holders</b>
<p>1. Name and address of the person or entity offering to sell the securities, the nature of any position office or other material relationship that the selling persons has had within the past three yrs. with the company or any of its predecessors or affiliates.</p>
<p>2. The number and class of securities being offered by each of the selling security holders.</p>
<b>V. I Expense of the Issue/Offer</b>
<p>2. A reasonably itemized statement of the major categories of expenses incurred in connection with the issuance and distribution of the securities to be admitted to trading or offered and by whom the expenses are</p>

payable, if other than the company. If any of the securities are to be offered for the account of a selling securities holders, indicate the portion of such expense to be borne by such security holder. The information may be given subject to future contingencies: If the amounts of any items are not known, estimates (identifies as such) shall be given.
<b>VI. ADDITIONAL INFORMATION</b>
<b>VI. A Articles of Association</b>
Indicate the register and the entry number therein, if applicable, and describe the company's objects and purposes and where they can be found in the memorandum and articles.
<b>VI. B Exchange controls</b>
Describe any governmental laws, decrees, regulations or other legislation of the home country of the company which may affect: <ul style="list-style-type: none"> <li>- the import or export of capital, including the availability of cash and cash equivalents for use by the company's group;</li> <li>- remittance of dividends, interest or other payments to non-resident holders of the company's securities.</li> </ul>
<b>VI. D Material Contracts</b>
Provide a brief summary of all material contracts that are not entered into in the ordinary course of the issuer's business, which could result in any group member being under an obligation or entitlement that is material to the group's ability to meet its obligation to security holders in respect of the securities being issued and contracts relevant to the transaction in question.
<b>VI. G Registration Document</b>
2. The securities note shall provide information that would normally be provided in the registration document if there has been a material change or recent development since the registration document was published.

**4. The following disclosures from the SN seem to be appropriate as being part of the base prospectus:**

<b>ANNEX L</b>
<b>III. KEY INFORMATION ABOUT THE ISSUER</b>
<b>III. A Capitalization and indebtedness</b>

A statement of capitalization
<b>III. B Use of proceeds</b>
<b>III. C Risk factors</b>
<b>V. OFFER AND ADMISSION TO TRADING DETAILS</b>
<b>V. A Description of the securities to be offered/admitted to trading</b>
2. Indicate the Law applicable to the securities.
5. Means of representation: where book-entry system is to be used, name and address of the entity in charge of keeping such records.
6. Status of the securities being offered and/or admitted to trading: Covenants: Negative pledge, cross default, pari passu and others similar clauses, if any (event of default...)
7. A description of the rights attached to the securities and procedure for the exercise of any right attached to the securities.
8. If the rights evidenced by the securities being offered or admitted to trading are or may be materially limited or qualified by the rights evidenced by any other class of securities or by the provisions of any contract or other documents, include information regarding such limitation or qualification or its effect on the rights evidenced by the securities to be admitted to trading or offered.
11. Arrangements for transfer of the securities and (where permitted) any restrictions on their free transferability.
12. Other specific legislation regarding the issue/offer.
17. Nature and scope of guarantees
<b>VI. ADDITIONAL INFORMATION</b>
<b>VI. C Taxation</b>
The issuer shall provide information regarding taxes to which holders in the country (or countries) where the public offer is being made or admission to trading is being sought, may be subject. Information should be included as to whether the company assumes responsibility for the withholding of tax at the source and regarding applicable provisions of any reciprocal tax treaties between the home and host countries, or a statement, if applicable, that there are no such treaties.
<b>VI. E Statement by Experts</b>



Where a statement or report attributed to a person as an expert is included in the document, provide such persons' name, address and qualifications and a statement to the effect that such statement or report is included, in the form and context in which it is included, with the consent of that person, who has authorized the contents of that part of the document.

**VI. F Documents on display**

Provide an indication of where the documents concerning the company which are referred to in the document may be inspected, by physical or electronic means.