

CESR Expert Group on Prospectuses

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EXECUTIVE SUMMARY

Debt securities

In the **Consultation Paper September 2002**, CESR affirms that corporate retail debt falls within the scope of “**plain vanilla debt**” and provided for the definition of corporate retail as instrument where **(item n. 108)**:

“the issuer has an obligation arising on issue to pay the investor 100% of the investor’s capital “the capital return element”, in addition to which there may also be an additional form of return to the capital return element of the instrument”.

In the **Consultation Paper October 2002**, CESR affirms that there are many different types of instrument that fall within the definition of “debt”, and for the sake of clarity, establishes that “**debt securities**” means instruments where **(item n. 130)**:

“the security is aimed at both retail and wholesale investors and the issuer has an obligation arising on issue to pay the investor 100% of the investor’s capital “the capital return element”, in addition to which there may also be an interest payment”.

In the **Addendum to the Consultation Paper December 2002**, CESR provides for a definition of “**wholesale investors**”: “Investors who purchase debt securities with a denomination per unit of at least EUR 50,000” and suggests to provide investors with a **lesser detailed disclosure** in case of debt securities aimed at those investors **(item n. 9)**.

Moreover, CESR assumes that a specific building block for securities issued by banks is needed **(item 37)**. Even if, on the consideration that a further distinction between the type of issued securities has to be made, proposes that no specific building block is justified where a bank issues equity securities and that the scope of building block should be limited to cases where the issuance of non-equity securities is planned **(item n. 40)**.

Derivative instruments

In the **Consultation Paper September 2002**, CESR provides for a third category of financial instruments, assuming that instruments such as asset backed securities, structured debt and warrants may fall within its scope and could be classified as derivative instruments **(item n. 131)**. Moreover CESR adds that the market has developed different products, such as covered warrants, certificates, reverse

convertible notes, whose description is not definitive and the nature of the instrument may vary depending on how the issuer structures those products ([item n. 135](#)).

As a starting point in discovering the category of derivative instruments, CESR has categorised these products into two core groups, reflecting the following two subcategories ([item n. 145, 150, 142](#)):

1. *non guaranteed return derivatives*: where the investor's return is wholly dependant upon the performance of the underlying instrument to which the product is linked;
2. *guaranteed return derivatives*: where the investor will receive some form of return from the issuer irrespective of how the underlying instrument performs and where the investor may also receive an additional return that is dependant upon the performance of the underlying instrument.

In the **Consultation Paper October 2002**, CESR, on the assumption that there has been no common definition of the word “**derivative**” suggests two possible approaches ordered to the categorisation of the derivative instruments ([item n. 166, 167](#)):

- a) derivative instruments are securities which comprise forward transactions in the form of firm transactions or options transactions whose value/price directly or indirectly depends on (i) the exchange or market price of securities; (ii) the exchange or market price of money market instruments; (iii) interest rate or other returns; (iv) the exchange or market price of good or precious metals; (v) the forward exchange rates or unit of account;
- b) to set out the fundamental features of these products so that, irrespective of what a security is called if it contains the features set out it is classifiable as a derivative security.

In the **Addendum to the Consultation Paper December 2002**, CESR has considered that the derivative instruments are currently issued by only one type of issuer, that is banks, or special purpose vehicle, whose obligations in respect of these products are guaranteed by such entities ([item n. 62](#)). Therefore, CESR has set out the proposed disclosure regime for derivative instruments aimed at both wholesale and retail investors issued by such entities ([item n. 63](#)).

CONCLUSION

On the basis of the reconstruction above, it could be convenient to set out, under Lamfalussy level 2, a common definition of the derivative instruments.

In my opinion, the main question is the certainty of the rules. Therefore, I deem necessary that the investor could recognise the risk arising from the investment by the denomination of the financial instrument: the single name of the security shall

enable the investor to know its characteristics, that is whether the principal is totally guaranteed or not; in other words, the investor could have the possibility to understand immediately if he/she will be provided at least with the return of the principal or not. Providing for a common definition of the category of the derivative instruments could represent a simpler approach for investors; on the other hand, with reference to the alternative approach proposed in the Consultation Paper October 2002, I consider very difficult to list all fundamental and exhaustive features of these product, especially due to the fact that derivative instruments raise continuously from the practice and they cannot be definitively standardised.

Further to the above and according with the approach set out in the **Consultation Paper October 2002 (item n. 166)**, I would suggest for derivative instruments the following definition:

“Derivative Instruments are financial securities which derive their value from other activities (securities, goods, products, so called underlying instruments) traded on the market and which could present a series of different features and characteristics depending upon the prospective yield and risk”.

Moreover, may I represent that in practice an offer to the public of a “pure derivative instrument” is a residual case, given that derivative instruments are basically offered to the public jointly with other debt securities (so called “structured debt”). As a consequence, we could assume that the concept of “derivative” could be regarded as a component of the financial instrument belonging to the category of structured debt.

The category of structured debts could be divided into:

- *structured debt where the wholly return of the principal is guaranteed;*
- *structured debt where the wholly return of the principal is not guaranteed.*

Therefore, in order to harmonise all Member States’ legislation related to securities and to allow issuers to be provided with a sole and common scheme for drafting prospectuses, I deem necessary and convenient to find, under Lamfalussy level 2, also a common meaning of the category of debt, regarded as “*plain vanilla*”.

With reference to plain vanilla debt, may I suggest the following definition:

“Plain Vanilla debt is a debt security with a guaranteed reimbursement of the principal, where the return, corresponding to a fixed or floating rate, is not linked to a derivative instrument”.

Stefano Vincenzi

CESR's Advice on possible Level 2 Implementing Measures for the Proposed Prospectus Directive – CONSULTATION PAPER OCTOBER 2002

A. REGISTRATION DOCUMENT

47. Yes, I agree with this approach.
51. I deem that pro forma financial information should be required in all cases where there is a significant gross change in the size of the company depending upon completed transactions. Otherwise, with reference to planned acquisition, I deem convenient (and not mandatory) to draw up a statement in order to describe the financing and economic effects in terms of net financial charges and goodwill amortisation stemming from the relevant transaction.
52. I deem that the 25% threshold would be appropriate.
55. In order to allow the competent authority to require pro forma information even if a significant gross change (also lesser than the 25% threshold) has not occurred, I deem necessary to previously fix all the circumstances and the objective criteria in which the pro forma information could be material to investors.
65. I do not agree on that approach. I deem that pro forma information have to be required only in the registration document or in a supplement to it, due to the circumstance that pro forma information is related to the issuer's financial trend, and not to the securities' performance.
73. We agree with the preliminary definition of profit or loss forecast as set out in item n. 72.
85. We deem possible that the issuer would be required to repeat or update the forecast in the prospectus.

87. I agree on the circumstance that the company's financial advisor (or any external expert accepted by the competent authority) should not be required to report on the forecast or estimate on the basis of the arguments set out in the CESR consultation paper. Moreover, I need to clarify whether the eventual mandatory reporting draft by the company financial advisors would be addressed to the public or would remain a confidential item, given that our practice deals with a reporting by the company's financial advisors addressed to the parties involved in a listing procedure.
89. Our practice already deal with that type of disclosure, given that the directors, in order to be entrusted with their appointment, have to demonstrate to own "experience and integrity requirements". The integrity requirements are equivalent to the proof that the director has not been involved in fraudulent offences, previous bankruptcies and/or public criticism.
91. I deem that the simple disclosure of the shareholder effectively controlling the company is sufficient. However, it could be useful, under Lamfalussy level 2, to set out the common rules of the Corporate Governance.
93. I do not deem that the issuer should be required to put on display all the documents referred to in the prospectus, but only the information set out in the proposal of Directive. I deem that it could be better to avoid to put on display the document related to transaction not yet completed and, due to privacy laws, documents belonging to third parties or concerning third parties. Moreover, we deem convenient that all the documents incorporated by reference would be materially transmitted to the competent authorities in order to keep the certainty of their contents also for the future.
96. Given that the purpose of the prospectus directive is to harmonise all the European legislation related to securities and to allow issuers to be provided with the approval to the publication of the prospectus by the competent authority of a State which is different from the home member State, I deem necessary to include other specific building blocks related to banks and insurance companies and other main issuers, so that these company could be subject to the same disclosure requirements either in their home member state or in another member state in the UE.
101. I deem it could be useful to include an independent expert opinion on the products and on the business plan for the start-up companies.
129. Given that, in my opinion, the disclosure requirements depend essentially on the circumstance that the company is a listed or supervised entity, I deem that the disclosure requirements for debt securities could be equivalent to those for equity.

134. In this respect, and in particular with reference to the disclosure about the issuer's banker, we underline that banks are entities supervised and normally listed, so that they are normally compliant with general disclosure requirements. However, I do not deem necessary to require a specific disclosure about the issuer's advisers (bankers and legal advisors), except in the case of potential conflict of interests related to the offer.
135. It could be relevant only in the case of potential conflict of interests between the parties involved in the transaction.
137. I consider disclosure about a company's past investment to be relevant for investors. Investor has to know the investment policies of the company in order to understand its solvency and its capability to pay at least the investor's 100% capital.
138. The disclosure about a company's current investment is relevant for investors. Investors have to be aware of the investment policies of the company in order to understand its solvency and its capability to pay at least the principal.
139. The disclosure about a company's future investment could be relevant for investors. Investors have to know the investment policies of the company in order to understand its solvency and its capability to pay at least the principal.
142. I do not deem that disclosure requirements related to the company issuing bonds have to be different from disclosure requirements related to the company issuing equity securities, given that the registration document deals with the issuer independently on the type of security to be offered.
145. Yes, it could be useful.
146. I do not think that the approach has to be different.
148. I do not think the issuer should be required to put on display all documents referred to in the prospectus, as set out in Annex A. I deem that, with special regard to the material contracts and the third parties involved in them, it would cause problems due to the privacy laws.
149. I deem that the list set out in Annex I is exhaustive, even if, with special regard to the material contracts and the third parties involved in them, putting on display the relevant terms and conditions would cause problems due to the privacy laws and in some cases could provoke damages in terms of corporate image.
153. I would add the requirements set forth in the section "subsidiary information" due to the circumstance that the noteholders could benefit from being aware of details relating to the undertaking in which the issuer holds a proportion of the capital likely to have a significant effect on the assessment of its own assets and

liabilities, financial position or profit and losses. Nevertheless, I deem appropriate that: (i) only the information related to undertakings in which the issuer has a direct participating interest (i.e.: book value representing at least 10% of the capital and reserves), would be disclosed; (ii) information would be limited to undertakings' essential data, while others data could be disclosed by means of incorporation by reference to already existing documentation.

160. I deem that the registration document related to debt and equity securities has to present the same characteristics, even if, with regard to disclosure requirements, it could be opportune to make differences between registration document related to supervised or listed issuers and registration documents related to unlisted or non supervised ones. In the case of derivative instruments, and given that the return is not linked to the company's performance, we could choose a registration document which is less burdensome in terms of disclosure on the issuer.
170. Yes, I think it could be useful.
171. I prefer the approach characterised by the broad definition of derivative instruments. On one hand, I deem that giving a definition of the derivative category could represent a simpler approach for investors; on the other hand, I think that is impossible to list all fundamental and exhaustive features of these product, especially due to the fact that derivative instruments raise continuously from the practice and they cannot be definitively standardised.
172. I would suggest the following definition: *“for derivative instrument, we could intend a financial securities which derives its value from other activities (securities, goods, products, so called underlying instruments) traded on the market and which could present a series of different features and characteristics depending upon the prospective yield and risk”*.
179. I do not agree with the broad sub- categorisation of the derivative products, given that I do not agree with considering the derivatives as a separate category, due to the fact that the derivative component could be found either in a guaranteed securities debt or in a non guaranteed; moreover, in my opinion the wording “some form of return” could result misleading, as it do not clarify if the investor will be provided with the return of the principal or not.
180. I do not agree with the approach of having two distinct registration document building blocks to reflect the sub – categorisation. In fact, with reference to the disclosure requirements, I deem that the registration document related to the issuer has to be drawn up in the same manner either in the case of guaranteed securities debt or in the case of non guaranteed: every corporate, financial and business information have to be required apart from the risk potentially generated by the financial activities. Otherwise, the securities note could disclosure a different type of information depending upon the guaranteed or not guaranteed nature of securities debt. In the case of non guaranteed securities debt, it is necessary to

deeply describe the financial product (with particular regard to the derivative component and giving suggestions about where is possible to retrieve information about its performance) and to provide the investor with information and examples related to the potential performance and to the perspective yield, in order to get the investor aware of the risks rising from the investment: in other words, the investor has to know that he could potentially not receive an additional return and that he could lose the principal. On the other hand, in the case of guaranteed securities debt, the level of disclosure could be lower, due to the fact that investor's risk is limited to receiving no yield: in other words it is necessary to provide investors with a description of the structure of the financial product (underlining the presence of a derivative component) and with an appropriate exemplification on the yield, but it is not essential to remind the risk connected to the principal.

199. I deem that, in the case of derivative instruments, the required disclosure is too burdensome due to the fact that the potential return is non linked to the performance of the issuer but to the performance of the underlying. Therefore, I do not deem appropriate to apply IOSCO disclosure principles, which are very punctual and accurate, to these kind of security.
202. Yes, I deem that a general description of the issuer's principal activities could result an appropriate level of disclosure.
207. No, I do not consider to be relevant.
209. Yes, I deem that trend information could be relevant in terms of disclosure.
212. Yes, I deem that the name and the function of the directors of the issuing company could be an appropriate level of disclosure.
215. Yes I deem appropriate.
217. I deem necessary that Registration Document provides investors with all type of said financial information.
218. For the last two years.
219. I deem necessary to include that type of disclosure.
232. In my opinion, it is not clear which type of derivative instrument could have some form of guaranteed return, given that, to the extent of Italian practice, a derivative instrument with a wholly guaranteed return is a debt security with a derivative component. Moreover, the wording "some form of return" has an unclear meaning, so that I would suggest to eliminate it: in other words, or the return is guaranteed or is not guaranteed, but the practice does not deal with a partial form of guaranteed return.

B. SECURITIES NOTE

PART TWO – INCORPORATION BY REFERENCE

281. Yes, I deem that it is acceptable and exhaustive.
282. I do not deem necessary to include further technical advice in the list.

PART THREE – AVAILABILITY OF THE PROSPECTUS

325. Yes, I deem it appropriate.
326. Yes, I deem convenient to establish the minimum content of the notice under Lamfalussy level 2.
327. Yes, it could be an useful disclosure.
328. No, I do not deem it could be considered as an alternative to the publication of a formal notice by the issuer / offeror, given that the formal publication of the notice is a duty pertaining to the issuer or to the offeror.
335. Given that the Prospectus has to be made available to the public and to every investor upon request, the issuer has to feel free to choose its own delivery modalities.

Equity Securities Note (Annex K)

V. B Terms and conditions of the offer and action required to apply for the offer

3. We would like to know if the wording “*Possibility of multiple and/or joint applications, and description of the penalties for infringements*” means that multiple and/or joint applications could be normally used in the practice. In other words, we would point out that multiple and/or joint applications could be forbidden only by the contract entered into between the offeror and/or the issuer and global coordinator and not by a prohibition set forth by law and regulations.

V. D Placing

3. Underwriting

- a) We deem that it could be sufficient to deliver only the names of the persons underwriting or guaranteeing the issue. It often occurs that there is a large number of person involved in underwriting and guaranteeing the issue, so that it is impossible to know timely their personal data. In addition, we do not think investors could benefit from knowing that information; probably only the competent authorities could be interested in being aware of the addresses and descriptions of the natural or legal persons underwriting or guaranteeing the issue.
- b) In the international practice, it is possible to describe the feature of the underwriting relationship, due to the fact that there are two prospectuses: the preliminary offering and the definitive offering following the offer. Should we have a sole Securities Note preceding the offer, we could require only selected information about the underwriting, given that the underwriting agreements are normally reached at the moment of the filing of the Securities Note. Moreover, we have to point out that the guarantee related to the underwriting is not for the benefit of investors, but for the benefit of the offeror and/or the issuer: therefore, we do not deem crucial to provide investors with that type of disclosure. As a consequence, the only information which could be useful for the investors is being aware of the circumstance that the underwriting is or not guaranteed; consequently, I deem that providing investors with the information above in the prospectus, could represent a good level of disclosure.
- c) May we suggest the following wording: “*When the underwriting agreement **will be reached***”.
- d) May we suggest the following wording: “*Description of provisions enabling termination of the offering in certain circumstances **and reducing size***”. In my opinion it seems quite important providing for the possibility to reduce the size of the offer in order to allow the offeror

and/or the issuer not to terminate the offer in the event that it could be possible to reduce the relevant size.

V. E Pricing

With reference to the sensitive data on the price, we underline that the price and the final structure of the offer should be made available to the public by means of proper notice. Specifically, the maximum price will be communicated on the day of the opening of the offer and the final price will be communicated on the day following the closing of the offer.

We consider that, also during an IPO, the price cannot be defined in the prospectus, but in the prospectus it is possible to find only the method of determining the price and eventually a range of expected price. Currently, the method of determining the price is the “book building”, on the basis of which the final offer price could be properly defined by the market at the end of the offer procedure.

Stefano Vincenzi

CESR's Advice on possible Level 2 Implementing Measures for the Proposed prospectus Directive – Addendum to consultation paper

In order to answer to the questions submitted in the consultation paper, may I underline that all the information related to the issuer have to be included in the Registration Document (or in the Prospectus as a single document) and have to be updated by means of an appropriate supplement. The Securities Note have to deal only with information on the financial instruments. Moreover, according to Article 12, it would be convenient to suggest to Member States to make use of the Securities Note only in the case of “material change or recent developments” or in the case of information not yet disclosed in compliance with price sensitive or other prescriptions and not for the updating of the information.

The Summary has not be considered as an updating on the issuer, but as a resume of information which has already been made available to the public.

With reference to the information related to the issuer, notwithstanding the proposal of Directive does not cover the following item, I deem useful to point out that listed companies have to be treated, in terms of disclosure, differently from not listed ones. In other words, under level 2, it could be worthwhile underling that a listed entity is obliged to fulfil several disclosure obligations imposed by the competent authority and, due to this, it could be required to provide investors with a different disclosure in the registration document: specifically, relating to listed entities, simplified information on business overview would be limited to an updating of the activities carried out. The difference is based on the following circumstance: given that listed companies could publish a registration document every year, they could limit their disclosure to the events which have been occurred between the publication of the last registration document and the publication of the current one, so that the current registration document would be regarded as an annual updating of the last registration document.

Main Items

PART ONE – REGISTRATION DOCUMENT

Debt securities aimed at so called “wholesale investors”

In order to answer to the question submitted in the Addendum, I deem useful to well establish the limits of the provision laid down in Article 7(b), also on the basis of the systematic interpretation of the other provisions .

Article 3(2)(c) establishes that the obligation to publish a prospectus shall not apply to “an offer of securities addressed to investors who acquire securities for a total consideration of at least EUR 50.000 per investor”.

Article 5(3) establishes that offeror or person asking for the admission to trading on a regulated market may draw up the prospectus as single or separate documents.

Article 5(3), by the wording “subject to paragraph 4”, excludes from its scope all the types of securities enumerated in paragraph 4 (i.e.: non-equity securities issued under an offering programme, non-equity securities issued in a continuous or repeated manner by credit institutions), for which the prospectus shall consist of a “base prospectus” (see Part 4).

Article 7(b) provides for, while developing the different models of prospectus, account shall be taken of information to be required in a prospectus (for admission to trading) for non-equity securities issued by entities different from credit institution (see Article 5(3) above mentioned) having a denomination per unit of at least EUR 50.000, which have been excluded, by Article 5(3) from the obligation to publish a prospectus aimed at offering.

Therefore, on the assumption that the above reconstruction of the articles 5 and 7 results correct, I deem that the proposal for the wholesale debt registration document building block could be used solely for the admission to trading of non equity securities having a denomination per unit of at least EUR 50.000 issued by corporations and not issued under an offering programme.

Otherwise, for the admission to trading of non-equity securities issued by banks having a denomination per unit of at least EUR 50.000, the base prospectus, or a supplement to an already existing base prospectus, could be used.

In light of this, given that the offer of securities has been made under the disposal of Article 3 (2) (i.e.: exemption to draw up the prospectus in the case of offer to wholesale investors), it could result possible that no information about the issuer (i.e.: corporation) has been disclosed; therefore, I could conclude that wholesale investors, since the offer, were able to independently obtain information necessary to make an informed assessment on the investment.

Consequently, I do not deem necessary to provide wholesale investors with a detailed disclosure on the issuer; in fact, at the moment of admission to trading of these securities, which have been already placed to wholesale investors, we could presume that these investors are well informed and acquainted with the investment. Moreover, for the sake of completeness, I underline that when an issuer becomes a listed entity, it is obliged to fulfil several disclosure obligations imposed by the competent authority: by virtue of this, we could assume that a detailed disclosure made independently by the issuer in the registration document could be regarded as less relevant.

Finally, with reference to the questions submitted, I deem useful to require only minimum information gathered from the information already published by the issuer, eventually integrated with qualitative forecast on the current year and updating financial information on the latter six months period or on the accounting period's end.

* * *

Securities issued by banks

43. Pursuant to Article 7(d) of the proposed directive, suggesting to develop different models of prospectus taking account of entities authorised or regulated to operate in the financial market, I consider this approach justified. Moreover, due to the same, I deem necessary to include other specific building blocks related to insurance companies, so that these companies could be subject to the same disclosure requirements either in their home Member State or in another Member State within the UE.
44. I consider it should be applied also to non-EU banks that are subject to an equivalent level of regulatory and prudential supervision.
45. Yes, I agree.
47. I deem useful to disclose that type of information, due to the fact that we are oriented to provide investors in securities issued by banks with an higher disclosure. Moreover, the disclosure about a company's future investments could be relevant for investors. Investors have to know the investment policies of the company in order to understand its solvency and its capability to pay at least the principal.
49. In my opinion, that type of disclosure does not increase the value of the information given to the investor; in any case, our practice provides investors with solvency ratios.
51. Due to the circumstance that banks are subject to prudential and regulatory supervision, I do not deem necessary to continue to require disclosure of Board practices.
53. Yes, I deem useful to require that disclosure.
55. Yes, I deem useful to require that disclosure.
57. I deem that all the issuers, listed or not listed, offering securities and asking for their admission to trading, have to produce and attach to the prospectus interim accounts.
59. No, they are not.

Derivative Securities

66. I deem that, in the case of derivative instruments, the required disclosure is too burdensome due to the fact that the potential return is non linked to the performance of the issuer but to the performance of the underlying.

69. Yes, I deem that only the name and the function of the directors of the issuing company could be an appropriate level of disclosure.
71. Yes, I consider that information useful to enable investors to evaluate in the correct manner their investment.
73. I deem that, in the case of derivative instruments, the required disclosure is too burdensome due to the fact that the potential return is non linked to the performance of the issuer but to the performance of the underlying.
74. I deem that, in the case of derivative instruments, the required disclosure is too burdensome due to the fact that the potential return is non linked to the performance of the issuer but to the performance of the underlying.
76. Yes, I deem it should be retained.
78. I deem that all the issuers, listed or not listed, offering securities and asking for their admission to trading, have to produce and attach to the prospectus interim accounts.
80. No, they are not different.
87. In relation to guaranteed derivative securities issued by banks, I deem convenient that such securities irrespective of their percentage return have to be treated as other non equity securities issued by banks.
92. No, they should not be applied to non-bank issuers of non-guaranteed securities given the circumstance that banks which issue derivatives, besides to be supervised, are listed entities.
93. I deem necessary that non-banks issuers would disclose all information and requirements provided for by the core debt securities building block and which would not been requested to banks, due to the circumstance that they are supervised and listed entities.

PART TWO - SECURITIES NOTE

122. Yes, I agree.
123. Yes, I deem it appropriate.

125. I consider that disclosure more appropriate to the registration document. In fact, I am of the opinion that all the information related to the issuer have to be included in the Registration Document (or in the Prospectus as a single document) and have to be updated by means of an appropriate supplement.
132. Yes, I agree.
149. Yes, I agree.
151. Yes, I deem it appropriate.
155. Yes, I agree.
159. I deem that if the issuer of the underlying is a listed company, the information could be obtained by incorporating by reference the registration document of the issuer of the underlying share. Otherwise, if the issuer of the underlying is a not listed company, the information have to be disclosed as required in para. V.B.12 of the derivative securities schedule.

PART THREE – SUMMARY

168. Given that the proposal of Directive provides for a scheme of Summary (annex 1), I do not think there is a need to prepare, under Lamfalussy level 2, specific summary schedules, due to the circumstance that the summary has to be regarded as a “resume” of information which has already been made available to the public.

PART FOUR – BASE PROSPECTUS

175. In order to answer to the question, may I note as follows. Article 5(4) establishes that for some types of securities (i.e. non-equity securities including warrants in any form, issued under an offering programme; non equity securities issued in a continuous repeated manner by credit institutions), the prospectus shall consist of a base prospectus. I agree with the consideration that the specialist RD building block for banks would be incorporated, alternatively, into (a) the base prospectus produced in relation to non-equity securities, including warrants in any form, issued under an offering programme; (b) the base prospectus produced by a credit institution in relation to non-equity securities issued in a continuous or repeated manner. Nevertheless, I deem that the proposal of Directive outlines some differences between the “*normal prospectus procedure*” (see art. 5(3) and Art. 9(1)(4)) and “*programme or base prospectus procedure*” (see art. 5(4) and 9(2)(3)). In fact, a prospectus composed of separate documents could be updated during twelve months after its publication by means of supplement or pursuant

articles 10 and 12 of the proposal of directive. Otherwise, the **base prospectus**, in the case of an offering programme shall be valid for a period of up twelve months, while in the case of non equity securities issued by credit institution in a continuous or repeated manner shall be valid until no more of the securities concerned are issued in a continuous and repeated manner and could be updated only pursuant article 16 (*Supplement to the prospectus*) and only with information relating to the issuer. In the case of **base prospectus**, missing information on the issue will be integrated, pursuant article 14(2), by means of appropriate notice (*Price supplement*).

With reference to the above, I deem that the proposal of Directive had regarded the base prospectus not only as a procedure, but also as a pure scheme for the prospectus.

Stefano Vincenzi