



European Securities and
Markets Authority

The Chair

16 December 2013
ESMA/2013/1932

**Jonathan Faull
European Commission
Director General Internal
Market and Services
Rue de Spa 2
1049 Brussels
Belgium**

Re: Deadlines for the submission of draft technical standards

Dear Mr Faull,

DEAR JONATHAN,

As you know, on 19 January 2011 the European Commission adopted a legislative proposal (COM(2011) 8 final) amending Directives 2003/71/EC (the Prospectus Directive) and 2009/138/EC (Solvency II) in respect of the powers of the European Insurance and Occupational Pensions Authority and the European Securities and Markets Authority (the Omnibus II Directive). This letter addresses the proposed changes to Directive 2003/71/EC.

The original proposal foresaw the drafting of four draft regulatory technical standards (draft RTSs) by ESMA together with the establishment of a system for receipt of final terms to be communicated to the authority by issuers. The draft RTSs concern 1) information to be incorporated by reference, 2) procedures for the approval of a prospectus and the conditions in accordance with which time limits may be adjusted, 3) provisions relating to the publication of prospectuses and 4) dissemination of advertisements prior to a prospectus being made available to the public or before the opening of subscription. The deadline for the submission of each of these draft RTSs to the European Commission has been set in the proposal at 1 January 2014.

It is our understanding that the European Parliament will not now consider the proposed Omnibus II Directive until 11 March 2014.



The process for the drafting of RTS requires time for completion. Our assessment is that in order to complete all required steps for high quality technical standards minimum a year is needed for the draft RTSs and the establishment of a technical solution for receipt of final terms. Shortening this period has the risk that certain steps cannot be completed, which might negatively affect the quality of the standards, the credibility of ESMA and eventually the success of the regulatory reform.

When the deadlines are changed in the proposal, I would be obliged if you could ensure that ESMA has sufficient time to draft the RTS on the prospectus related issues.

I naturally understand and support the urgency to have harmonised EU level measures in place and to ensure that appropriate action can be taken by competent authorities and ESMA. At the same time, the credibility of the regulatory framework requires that it be properly considered, developed and consulted on.

Against this background, I would like to ask you to consider the possibility of including for the Directive above a generic reference for ESMA to submit draft RTS within one year from the publication of the relevant Directive in the Official Journal of the European Union.

Yours sincerely,

A handwritten signature in blue ink, appearing to be 'S. Maijoor', with a horizontal line extending to the right.

Steven Maijoor

Chair

European Securities and Markets Authority

cc: Sharon Bowles (MEP), Chair ECON Committee, European Parliament
Rimantas Sadzius, Lithuanian Minister for Finance
Andrea Enria, Chair, European Banking Authority
Gabriel Bernardino, Chair, European Insurance and Occupational Pensions Authority