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| 6 July 2017 |

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| Response form for the Consultation Paper on  format and content of the prospectus |
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| Date: 6 July 2017 |

Responding to this paper

ESMA invites responses to the questions set out throughout this Consultation Paper. Responses are most helpful if they:

1. respond to the question stated;
2. contain a clear rationale; and
3. describe any alternatives ESMA should consider.

ESMA will consider all responses received by 28 September 2017.

Instructions

In order to facilitate analysis of responses to the Consultation Paper, respondents are requested to follow the below steps when preparing and submitting their response:

1. Insert your responses to the questions in the Consultation Paper in the form “Response form\_Consultation Paper on format and content of the prospectus”, available on ESMA’s website alongside the present Consultation Paper ([www.esma.europa.eu](http://www.esma.europa.eu) 🡪 ‘Your input – Open consultations’ 🡪 ‘Consultation on technical advice under the new Prospectus Regulation’).
2. Please do not remove tags of the type <ESMA\_QUESTION\_FAC\_1>. Your response to each question has to be framed by the two tags corresponding to the question.
3. If you do not wish to respond to a given question, please do not delete it but simply leave the text “TYPE YOUR TEXT HERE” between the tags.
4. When you have drafted your response, name your response form according to the following convention: ESMA\_FAC\_nameofrespondent\_RESPONSEFORM. For example, for a respondent named ABCD, the response form would be entitled ESMA\_FAC\_ABCD\_RESPONSEFORM.
5. Upload the form containing your responses, in Word format, to ESMA’s website ([www.esma.europa.eu](http://www.esma.europa.eu) under the heading ‘Your input – Open consultations’ 🡪 ‘Consultation on technical advice under the new Prospectus Regulation’).

Publication of responses

All contributions received will be published following the close of the consultation, unless you request otherwise. Please clearly indicate by ticking the appropriate checkbox on the website submission page if you do not wish your contribution to be publicly disclosed. A standard confidentiality statement in an email message will not be treated as a request for non-disclosure. A confidential response may be requested from us in accordance with ESMA’s rules on access to documents. We may consult you if we receive such a request. Any decision we make not to disclose the response is reviewable by ESMA’s Board of Appeal and the European Ombudsman.

Data protection

Information on data protection can be found at [www.esma.europa.eu](http://www.esma.europa.eu) under the heading ‘Data protection’.

Who should read this Consultation Paper

This Consultation Paper may be of particular interest to investors, issuers, including issuers already admitted to trading on a regulated market or on a multilateral trading facility, offerors or persons asking for admission to trading on a regulated market as well as to any market participant who is affected by the new Prospectus Regulation.

# General information about respondent

|  |  |
| --- | --- |
| Name of the company / organisation | Italian Banking Association (ABI) |
| Activity | Banking sector |
| Are you representing an association? |  |
| Country/Region | Italy |

# Introduction

Please make your introductory comments below, if any:

<ESMA\_COMMENT\_FAC\_1>

The following comments have been written from a point of view of banks acting in different roles (issuers and intermediaries) both on debt and equity capital markets.

In this regard we wish to point out that several issues figuring in the consultation paper should have been treated in a different way according to whether they refer to debt or equity financial instruments: Whenever appropriate, we have made a distinction between the different securities in order to highlight their different features.

In addition, with regard to the request for cost estimates deriving from the implementing proposals, we are not able to give concrete figures in terms of impact for issuers/intermediaries/investors.

Finally, it should be noted that some proposals regarding the re-categorisation and/or classification of some information (*e.g*. please see item 4.1.13 or item 4.2.2 Annex 7) seem to be more in line with standalone prospectuses rather than base prospectuses (to this end, please see, *inter alia*, answers to questions 47 and 48).

<ESMA\_COMMENT\_FAC\_1>

1. : Do you agree with the proposal that cover notes be limited to 3 pages? If not, what do you consider to be an appropriate length limit for the cover note? Could you please explain your reasoning, especially in terms of the costs and benefits implied?

<ESMA\_QUESTION\_FAC\_1>

We agree with the proposal that cover notes be limited to 3 pages. However we feel that cover notes should not overlap the summary and should not make the prospectus too lengthy which would make it difficult for investors to read.

<ESMA\_QUESTION\_FAC\_1>

1. : Would a short section on “how to use the prospectus” make the base prospectus more accessible to retail investors? If so, should it be limited to base prospectuses? Would this imply any material cost for issuers? If yes, please provide an estimate of such cost.

<ESMA\_QUESTION\_FAC\_2>

Yes, a short section on “how to use the prospectus” could make the base prospectus more accessible to retail investors. However this section should be considered a guide for the investors: it should not draw the attention on some pieces of information rather than others. Moreover we feel that this section could be extended to other prospectus formats although it does seem more reasonable to use it for the base prospectus.

<ESMA\_QUESTION\_FAC\_2>

1. : Should the location of risk factors in a prospectus be prescribed in legislation or should issuers be free to determine this? If it should be set out in legislation, what positioning would make it most meaningful?

<ESMA\_QUESTION\_FAC\_3>

We believe a legislative placement of the risk factors is preferable as it would also provide the prospectus with greater balance and consequently make it easier for investors to gain a clearer comprehension of the risks involved. We agree about inserting the risk factor disclosure after the general description of the programme in the case of the base prospectus while in other cases the risk factors could be placed after the summary.

<ESMA\_QUESTION\_FAC\_3>

1. : Should the URD benefit from a more flexible order of information than a prospectus?

<ESMA\_QUESTION\_FAC\_4>

We believe that the content of the URD should make reference to schedules of registration document in order to align the information on the issuer We also believe that the order of information in the URD could benefit from a certain amount of flexibility gained by specifying references to the items of registration document by means of a cross reference list.

<ESMA\_QUESTION\_FAC\_4>

1. : Would a standalone and prominent use of proceeds section be welcome for investors?

<ESMA\_QUESTION\_FAC\_5>

In the case of issuances by financial issuers (e.g. banks) this section does not constitute a meaningful source of information for investors as bank activity is rather similar and standardised. In the case of non-financial issuers (IPO/right issues) it could be useful to give more details on the use of proceeds even if equity prospectuses already contain a large amount information in this paragraph.

Should ESMA decide to keep the approach described in the consultation paper, we would suggest setting out such disclosure requirements for financial issuers (e.g. banks) only when the proceeds are not used for their standardised purposes (*i.e.* for funding or hedging purposes.

<ESMA\_QUESTION\_FAC\_5>

1. : Is the list of “additional information” in Article XXI of the Commission Regulation fit for purpose? What other types of additional information should be included in a replacement annex?

<ESMA\_QUESTION\_FAC\_6>

We feel that the list of “additional information” laid down in the article XXI of the Commission Regulation in its final version is fit for purpose. Therefore, no other additional information should be included in a replacement annex.

<ESMA\_QUESTION\_FAC\_6>

1. : Are the definitions proposed to be carried over to the new regime, and new definitions proposed adequate? Should any additional definitions be added?

<ESMA\_QUESTION\_FAC\_7>

We believe that the definition of "securitised derivatives" or "derivatives" should be included in the new regime, in order to clearly specify which securities are subject to the "new" Annex V and the building block "replacing" Annex XII.

<ESMA\_QUESTION\_FAC\_7>

1. : What is the overall impact of the above technical advice, especially in terms of costs to issuers and benefits to investors? If you have indicated that the proposed technical advice will pose additional costs for issuers, please provide an estimate and indicate their different type (e.g. extra staff costs, advisor costs, etc.) and nature (one-off vs. ongoing costs).

<ESMA\_QUESTION\_FAC\_8>

Please refer to introduction

<ESMA\_QUESTION\_FAC\_8>

1. : Do you agree that the scope of NCA approval should be included in the cover note? If not, please provide your reasoning.

<ESMA\_QUESTION\_FAC\_9>

We agree that the scope of NCA approval should be included in the cover note in order to inform the investors about the criteria (completeness, comprehensibility and consistency) on which the NCA has based its approval. This would avoid any overreliance on the prospectus approval.

<ESMA\_QUESTION\_FAC\_9>

1. : Do you agree that the requirement for issuers of equity and retail non-equity to include selected financial information in the prospectus can be removed without significantly altering the benefits to investors?

<ESMA\_QUESTION\_FAC\_10>

We agree that the requirement for issuers of equity and retail non-equity to include selected financial information in the prospectus can be removed without any significant harm to the investors since this information will be contained in the registration document and in the Universal Registration Document, if the latter is made available by the issuer.

<ESMA\_QUESTION\_FAC\_10>

1. : Do you agree that issuers should be required to include their website address in the prospectus? Do you agree that issuers should be required to make documents on display electronically available? Would these requirements imply any material additional costs to issuers?

<ESMA\_QUESTION\_FAC\_11>

Yes, we agree that issuers should be required to include their website address in the prospectus in order to give investors more detailed contact information: we also agree with the ESMA proposal to make documents that Commission Regulation requires available on electronic, rather than physicall, display. However, we disagree with the requirement to electronically display the original Article of Association whenever it dates back to previous centuries. Old dated document do not add information to the investors and to transpose it into electronic format could be problematic and/or expansive.

<ESMA\_QUESTION\_FAC\_11>

1. : Do you consider that a description of material past investments is necessary information for the purpose of the prospectus?

<ESMA\_QUESTION\_FAC\_12>

The description of material past investments seems not to be always substantial in the case of financial issuers. Whenever this information is substantial, it is already disclosed in the financial statements and, if needed, in the supplement to the prospectus.

<ESMA\_QUESTION\_FAC\_12>

1. : Do you agree with the proposal to align the OFR requirement with the management reports required under the Accounting Directive? Would this materially reduce costs for issuers?

<ESMA\_QUESTION\_FAC\_13>

We agree with the proposal to align OFR disclosure requirements with those provided by the management report under Accounting Directive.

<ESMA\_QUESTION\_FAC\_13>

1. : Do you agree with ESMA’s proposal to require outstanding profit forecasts for both equity and non-equity issuance to be included? Do you agree with the deletion of the obligation to include an accountant’s or an auditor’s report for equity and retail non-equity? Please provide an estimate of the benefits for the issuers arising from the abovementioned proposals. Would these requirements significantly affect the informative value of the prospectus for investors?

<ESMA\_QUESTION\_FAC\_14>

In the case of non-equity securities, we disagree with ESMA’s proposal to require outstanding profit forecasts to be included in the prospectus as this information isn’t meaningfulfor an investor in debt instruments who can better support his investment decision with a credit rating instead. Furthermore, this information is not disclosed in financial statements and may not be submitted in an audit report. Any requirement for this information risks creating a misalignment with the information disclosed in the prospectus/supplement and, consequently, a potential cause for confusion by the investors.

In the case of equity issuances we disagree with the ESMA proposal to delete the obligation to include an accountant’s or an auditor’s report as this information - based on forward looking statements - would imply an overreliance on the data and information disclosed by the issuers and an increasing responsibility for issuers and financial intermediaries, whenever involved. From an issuer’s point of view, there is clearly a need to add profit forecasts in order to make his offer appealing for the investor. However we believe there should be also some form of control on the hypotheses used by the issuers when presenting profit forecasts. For this reason we are in favour of a report prepared by independent accountants or auditors supporting and evaluating the assumption criteria used by the issuer on profit forecasts.

Lastly, for equity issuances, we support the solution aimed at maintaining the “status quo”, without a presumption of materiality for profit forecasts made outside the prospectus.

<ESMA\_QUESTION\_FAC\_14>

1. : Do you agree with the proposal to explain any ‘emphasis of matter’ identified in the audit report?

<ESMA\_QUESTION\_FAC\_15>

<ESMA\_QUESTION\_FAC\_15>

1. : Should there be mandatory disclosure of the size of shareholdings pre and post issuance where a major shareholder is selling down? Would this requirement imply any material additional costs to issuers?

<ESMA\_QUESTION\_FAC\_16>

Yes we agree with a mandatory disclosure of the size of shareholdings pre and post issuance where a major shareholder is selling down. This would give investors more detailed information. However, this disclosure is already inserted in the prospectus as standard practice.

<ESMA\_QUESTION\_FAC\_16>

1. : Do you consider that the new requirement to disclose potential material impacts on the corporate governance would provide valuable information to investors?

<ESMA\_QUESTION\_FAC\_17>

We consider that such a new requirement to disclose potential material impacts on the corporate governance is a valuable piece of information for investors. However, this disclosure is already inserted in prospectus as a standard practice.

<ESMA\_QUESTION\_FAC\_17>

1. : Do you agree with the proposal to clarify the requirement for restated financial information?

<ESMA\_QUESTION\_FAC\_18>

We agree with the proposal to clarify the requirement for restated financial information and to align it with IFRS 1, but is important to evaluate the impact on the cost for issuers too.

<ESMA\_QUESTION\_FAC\_18>

1. : Do you agree with the lighter requirement in relation to replication of the issuer’s M&A in the prospectus? Would this significantly affect the informative value of the prospectus for investors?

<ESMA\_QUESTION\_FAC\_19>

We agree with the lighter requirement in relation to the replication of the issuer’s M&A in the prospectus unless the latter does not contain any particular provisions or its replication has an high impact on the costs for the issuer.

<ESMA\_QUESTION\_FAC\_19>

1. : Should any further changes be made to the share registration document? Please advise of any costs and benefits implied by the further changes you propose.

<ESMA\_QUESTION\_FAC\_20>

We suggest that the information requested in point 18.1 are updated on the date of submission to the National Competent Authority of the last draft for approval instead of the date of the registration document itself in order to avoid possible inconsistency (e.g. share registration document approved in the morning and new/different shareholders structure communicated -same day- to the market.

<ESMA\_QUESTION\_FAC\_20>

1. : What is the overall impact of the proposed technical advice, especially in terms of costs to issuers and benefits to investors? If you have indicated that it will pose additional costs for issuers, please provide an estimate and indicate their different type (e.g. extra staff costs, advisor costs, etc.) and nature (one-off vs. ongoing costs).

<ESMA\_QUESTION\_FAC\_21>

Please refer to introduction.

<ESMA\_QUESTION\_FAC\_21>

1. : Do you consider that the requirement for a working capital statement should be different in the case of credit institutions and insurance companies?

<ESMA\_QUESTION\_FAC\_22>

<ESMA\_QUESTION\_FAC\_22>

1. : Do you agree that issuers should be required to update their capitalisation and indebtedness table if there are material changes within the 90 day period? Would this imply any material additional cost to issuers? If yes, please provide an estimation.

<ESMA\_QUESTION\_FAC\_23>

We agree with the proposal to require an update of issuer’s capitalisation and indebtedness table if there are material changes within a 90 day period from the last financial statements.

<ESMA\_QUESTION\_FAC\_23>

1. : Do you consider the changes to dilution requirements would be helpful to investors at the same time as being feasible to provide for issuers?

<ESMA\_QUESTION\_FAC\_24>

We consider the changes to dilution requirements are helpful to investors and feasible to provide for issuers. However, this disclosure is already a standard practice.

<ESMA\_QUESTION\_FAC\_24>

1. : Do you agree that the information solicited by item 9.2 is important for investors?

<ESMA\_QUESTION\_FAC\_25>

We agree that the information on shareholders’ dilution solicited by item. 9.2 is important for investors.

<ESMA\_QUESTION\_FAC\_25>

1. : Do you consider that any further changes be made to the equity securities note? Please advise of any costs and benefits that would be incurred by the further changes you propose.

<ESMA\_QUESTION\_FAC\_26>

No further changes.

<ESMA\_QUESTION\_FAC\_26>

1. : What is the overall impact of the proposed technical advice, especially in terms of costs to issuers and benefits to investors? If you have indicated that it will pose additional costs for issuers, please provide an estimate and indicate their different type (e.g. extra staff costs, advisor costs, etc.) and nature (one-off vs. ongoing costs).

<ESMA\_QUESTION\_FAC\_27>

Please refer to introduction.

<ESMA\_QUESTION\_FAC\_27>

1. : Do you agree with the proposal to delete disclosure on principal investments and replace this with a requirement to provide details on the issuer’s funding structure and borrowing requirements? Would this significantly affect the informative value of the prospectus for investors?

<ESMA\_QUESTION\_FAC\_28>

Yes we agree with the proposal to delete disclosure on principal investments and replace it with a requirement to provide details on the issuer’ funding structure and borrowing requirements. However, we think that, in the case of bank issuances, this information does not affect the informative value for the investors as banks’ funding structures are usually similar and standardized, consisting of liabilities such as notes and deposits.

<ESMA\_QUESTION\_FAC\_28>

1. : Do you agree that an issuer of retail non-equity should be required to include a credit rating previously assigned to it in the prospectus?

<ESMA\_QUESTION\_FAC\_29>

We support the proposal to include a link to the issuer website where investor can come into knowledge of the credit rating assigned in the prospectus. Including a credit rating directly in the prospectus would involve an increase in amendments to the prospectus and consequently a need for frequent supplements We suggest thinking about the same comment for Annex 4 item 4.1.6 too.

<ESMA\_QUESTION\_FAC\_29>

1. : Do you agree with the proposal to remove the requirement for profit forecasts and estimates to be reported on? Would this significantly affect the informative value of the prospectus for investors?

<ESMA\_QUESTION\_FAC\_30>

As previously indicated (see Question. 14) we disagree with ESMA’s proposal to require outstanding profit forecasts to be included in the prospectus (equity and non equity) as this information is not disclosed in financial statements and is not submitted for the audit report. Moreover, requiring this information risks creating a misalignment with the information disclosed in the prospectus/supplement and, consequently, a potential cause for confusion for investors. Furthermore, we consider the information on profit forecasts not to be meaningful for an investor in debt instruments who can better support his investment decision with a credit rating instead.

Profit estimates, if considered meaningful for an investor, can be included in non equity prospectus without the obligation to include an accountant or an auditor’s report

<ESMA\_QUESTION\_FAC\_30>

1. : Do you agree with the proposal that outstanding profit forecasts and estimates should be included in the registration document?

<ESMA\_QUESTION\_FAC\_31>

As stated above, (see Question 14) we disagree with the proposal to include outstanding profit forecasts in the registration document for non equity prospects as this information isn’t meaningful for the investors. In equity prospectus instead, as this information is not disclosed in financial statements and is based on forward looking statements of the issuer, it should be accompanied by a report prepared by independent accountants or auditors, if the information is included by the issuer. Profit estimates, instead, relating to *a* financial period which has expired and for which results have not yet been published, are based on historical data. As such, this information is meaningful for an investor in debt instruments and, if included in non equity prospectus by the issuer, doesn’t require to be accompanied with an obligation to include an accountant or an auditor’s report.

<ESMA\_QUESTION\_FAC\_31>

1. : Do you agree with the deletion of the disclosure requirement related to board practices? Would this significantly affect the informative value of the prospectus for investors?

<ESMA\_QUESTION\_FAC\_32>

We agree with the deletion of the disclosure requirement related to board practices even if this item is not meaningful in the case of debt bank issuances.

<ESMA\_QUESTION\_FAC\_32>

1. : Do you consider that any further changes should be made to the retail debt and derivatives registration document? Please advise of any costs and benefits that would be incurred by the further changes you propose.

<ESMA\_QUESTION\_FAC\_33>

No further changes.

<ESMA\_QUESTION\_FAC\_33>

1. : What is the overall impact of the proposed technical advice, especially in terms of costs to issuers and benefits to investors? If you have indicated that it will pose additional costs for issuers, please provide an estimate and indicate their different type (e.g. extra staff costs, advisor costs, etc.) and nature (one-off vs. ongoing costs).

<ESMA\_QUESTION\_FAC\_34>

Please refer to introduction.

<ESMA\_QUESTION\_FAC\_34>

1. : Do you agree with the removal of the requirement for wholesale non-equity issuers to restate their financial statements? Would this significantly affect the informative value of the prospectus for investors?

<ESMA\_QUESTION\_FAC\_35>

We agree with the removal of the requirement for wholesale non-equity issuers to restate financial statements. Wholesale investors are able to understand and analyse the financial statements or to find other information sources without such a restatement.

<ESMA\_QUESTION\_FAC\_35>

1. : Do you consider that any further changes be made to the wholesale debt and derivatives registration document? Please advise of any costs and benefits that would be incurred by the further changes you propose.

<ESMA\_QUESTION\_FAC\_36>

No further changes.

<ESMA\_QUESTION\_FAC\_36>

1. : What is the overall impact of the proposed technical advice, especially in terms of costs to issuers and benefits to investors? If you have indicated that it will pose additional costs for issuers, please provide an estimate and indicate their different type (e.g. extra staff costs, advisor costs, etc.) and nature (one-off vs. ongoing costs).

<ESMA\_QUESTION\_FAC\_37>

Please refer to introduction.

<ESMA\_QUESTION\_FAC\_37>

1. : Do you agree with the way in which disclosure on taxation has been reduced? Would this significantly affect the informative value of the prospectus for investors?

<ESMA\_QUESTION\_FAC\_38>

Yes we agree with the new reduced disclosure on taxation.

<ESMA\_QUESTION\_FAC\_38>

1. : Do you consider there are any negative consequences of the requirement to make details on representation of security holders available electronically and free of charge? Would this imply any material additional costs to issuers? If yes, please provide an estimation.

<ESMA\_QUESTION\_FAC\_39>

We understand that this requirement only applies when a representative of the noteholders has been appointed and, therefore, it has no impact on issuances of securities where a representative has not been appointed. We disagree with the requirement to publish this type of contract on the website because they are usually included in more general contracts regulating other activities too. We agree that the public should have free access to the contracts (as indicated in the outstanding regulation).

<ESMA\_QUESTION\_FAC\_39>

1. : Do you consider that expenses charged to the purchaser should also include implicit costs i.e. those costs included in the price (item 5.3.1)?

<ESMA\_QUESTION\_FAC\_40>

Yes we agree that in the description of the amount of expenses charged to the purchaser implicit costs should also be included. However, this description is already adopted in some countries as a standard practice.

<ESMA\_QUESTION\_FAC\_40>

1. : Do you agree with the proposal that the issue price of the securities to be included in the prospectus in the case of an admission to trading?

<ESMA\_QUESTION\_FAC\_41>

Yes we agree. At things stand, bank issuers already specify the issue priceof securities (including securities to be admitted to trading) in the relevant Final Terms.

Furthermore, we deem that such information relates to the features of the securities (whether they are offered and/or admitted to trading) and should, therefore, be moved to the specific section on securities (item 4 in the annexes of both retail and wholesale debt/derivatives securities notes).

<ESMA\_QUESTION\_FAC\_41>

1. : Do you consider that any further changes be made to the retail debt and derivatives securities note? Please advise of any costs and benefits that would be incurred by the further changes you propose.

<ESMA\_QUESTION\_FAC\_42>

Since there are no specific questions on the re-categorisation from B to A of the information regarding the "*description of the type and the class of the securities being offered to the public and/or admitted to trading*" (i.e. item 4.1), we would stress hereunder - further to what has been specified in the introduction - that such re-categorisation could entail a restriction on the use of multi-product programmes, and this does not seem to be in line with the purposes of the new prospectus regulations.

Please refer to Question 47 as well**.**

With reference to Annex V (retail debt and derivatives securities note) and the applicable final terms, we deem that ESMA should address the issue of the responsibility regime (and relevant disclosure) for the information included in the securities note (or final terms) where, either*:*

* *a* member state requires issuers, offerors or persons asking for admission to trading on a regulated market to replace part of the prospectus summary with part of the key information document required under regulation (EU) 1286/2014; and
* the manufacturer who, pursuant to regulation (EU) 1286/2014, should draw up the key information document is different to the person in charge of drawing up the prospectus.

Furthermore, as far as we understand, the provision of article 29, paragraph 2 of Regulation (EU) 2016/1011 applies to prospectuses for all securities that reference a benchmark, not just for derivative securities. We kindly ask ESMA to clarify why the relevant disclosure requirement has been added to Annex 7 (derivative securities building block) instead of to Annexes V and VI.

<ESMA\_QUESTION\_FAC\_42>

1. : What is the overall impact of the proposed technical advice, especially in terms of costs to issuers and benefits to investors? If you have indicated that it will pose additional costs for issuers, please provide an estimate and indicate their different type (e.g. extra staff costs, advisor costs, etc.) and nature (one-off vs. ongoing costs).

<ESMA\_QUESTION\_FAC\_43>

Please refer to introduction.

<ESMA\_QUESTION\_FAC\_43>

1. : Do you consider that any further changes be made to the wholesale debt and derivatives securities note? Please advise of any costs and benefits that would be incurred by the further changes you propose.

<ESMA\_QUESTION\_FAC\_44>

Considering the difficulties involved in specifying exactly the reason for issuances (i.e. there is not an exact correspondence between a financial instrument and hedging purposes), we suggest including a broader explanation and more general wording relating to use of proceeds. In any case, it could prove useful to clarify this requirement further with the relevant Authority.

Furthermore, please refer question 42 on the benchmark statement.

<ESMA\_QUESTION\_FAC\_44>

1. : What is the overall impact of the proposed technical advice, especially in terms of costs to issuers and benefits to investors? If you have indicated that it will pose additional costs for issuers, please provide an estimate and indicate their different type (e.g. extra staff costs, advisor costs, etc.) and nature (one-off vs. ongoing costs).

<ESMA\_QUESTION\_FAC\_45>

Please refer to the introduction.

<ESMA\_QUESTION\_FAC\_45>

1. : Do you agree with the proposal to make derivate disclosures a building block?

<ESMA\_QUESTION\_FAC\_46>

We agree with the approach taken by ESMA to make derivative securities a building block that can be added on to the securities-note disclosure, rather than having two separate parts.

<ESMA\_QUESTION\_FAC\_46>

1. : Do you agree with the proposal to reclassify the how the return on derivatives take place from B to A? If not, please explain why.

<ESMA\_QUESTION\_FAC\_47>

In the first instance, as a general comment, we would like to point out that the Annexes do not make a distinction between the information which needs to be inserted in the Base Prospectus relating to programmes and that which needs to be inserted in the standalone Prospectuses; as a consequence, it is often quite difficult to understand precisely which information needs to be inserted in which Prospectus.

In light of the above, we believe that the proposed amendment should only refer to standalone Prospectuses, it not being possible for Base Prospectuses relating to Programmes where there are several structures to specify the structure of the financial instrument to be issued only in the Prospectus (i.e. type A information). It would, therefore, be preferable to maintain the current classification (i.e. type B information), which requires the inclusion of all the different financial structures in the Base Prospectus and a specification of the relevant financial structure for each single issue in the relevant Final Terms.

<ESMA\_QUESTION\_FAC\_47>

1. : Do you consider agree with ESMA’s proposals to enhance the disclosure in relation to situations where investors may lose all or part of their investment?

<ESMA\_QUESTION\_FAC\_48>

We do not agree with the insertion of new let. c) “*so far as the issuer is aware and/or able to ascertain from information published by the issuer of the security or reference obligation, information relating to the issuer of the security or reference obligation as if it were the issuer (in accordance with the wholesale debt and derivatives registration document schedule)*”.  In particular:

1. this is information (classified as type A) which can be inserted only in standalone Prospectuses. In Base Prospectuses such information is not available on the approval date, but should be inserted from time to time in the relevant Final Terms relating to each single issue; and
2. unless the issuer of the securities is the same as the issuer of the underlying, we do not agree that the issuer of securities should specify the information relating to the issuer of the underlying in the Prospectus and take on ensuing responsibility. The issuer of securities should only specify information such as ISIN Code of the underlying or the underlying website in the Prospectus, but should not be required to insert additional information relating to the issuer of the underlying.

With the aim of better clarifying the information included in item 4.2.2.(ii)(d), we suggest amending it and adding after the words “*if the issuer of the underlying security or reference obligation has securities already admitted to trading on a regulated****”*** *the following words***: “*regularly operating, recognized open market and/or any other trading venue (including, without limitation, MTF, OTF and/or systematic internaliser”***

Finally, with respect to this item, we wish to point out that such disclosure requirements would significantly increase issuer's liabilities as regards data and information that are dependent on different issuers, as already anticipated in point (b) above. This would also bring about a meaningful risk of rendering base prospectuses less accessible to issuers.

<ESMA\_QUESTION\_FAC\_48>

1. : Do you consider that the requirements should be different where the return of the investment is linked to the credit of other assets (i.e. credit linked securities) than where the return is linked to the value of a security?

<ESMA\_QUESTION\_FAC\_49>

We think it is right to have a different disclosure requirements for credit-linked securities, due to the peculiar nature of these securities.

<ESMA\_QUESTION\_FAC\_49>

1. : Do you consider that any further changes be made to the derivatives securities building block? Please advise of any costs and benefits that would be incurred by the further changes you propose.

<ESMA\_QUESTION\_FAC\_50>

We suggest:

1. deleting new let. c) in paragraph 4.2.2 of Annex 7, as specified in Question 48 above;
2. better clarifying the information in the Annexes which need to be inserted in the Base Prospectus relating to Programme and that which needs to be inserted in standalone Prospectuses.
3. reviewing the re-categorisation regime stated in item 4.1.13(a) (please see Question 47 above); and
4. broadening the scope stated in item 4.2.2.(ii)(d) in order to include any security admitted to trading on any trading venue (please see Question 48 above).
5. making a distinction as regards the extent of disclosure according to whether the underlying security is listed or not, and depending on whether investors are retail or wholesale.

<ESMA\_QUESTION\_FAC\_50>

1. : What is the overall impact of the proposed technical advice, especially in terms of costs to issuers and benefits to investors? If you have indicated that it will pose additional costs for issuers, please provide an estimate and indicate their different type (e.g. extra staff costs, advisor costs, etc.) and nature (one-off vs. ongoing costs).

<ESMA\_QUESTION\_FAC\_51>

We believe that the new let. c) in paragraph 4.2.2 of Annex 7 should be deleted. The issuer of securities should not take on the responsibility for information relating to the issuer of the underlying. This new information requirement exposes issuers of securities to liabilities which are difficult to forecast. Therefore, we believe that the proposed amendment would lead to (potentially very high) additional legal costs for issuers.

<ESMA\_QUESTION\_FAC\_51>

1. : Do you agree with the proposed amendments to the annex relating to the underlying share?

<ESMA\_QUESTION\_FAC\_52>

<ESMA\_QUESTION\_FAC\_52>

1. : What is the overall impact of the proposed technical advice, especially in terms of costs to issuers and benefits to investors? If you have indicated that it will pose additional costs for issuers, please provide an estimate and indicate their different type (e.g. extra staff costs, advisor costs, etc.) and nature (one-off vs. ongoing costs).

<ESMA\_QUESTION\_FAC\_53>

Please refer to introduction.

<ESMA\_QUESTION\_FAC\_53>

1. : Do you agree that the annex for third countries and their regional and local authorities should remain unchanged (with the exception of the reference to Member States)?

<ESMA\_QUESTION\_FAC\_54>

TYPE YOUR TEXT HERE

<ESMA\_QUESTION\_FAC\_54>

1. : Do you agree with the proposal relating to the asset backed securities registration document?

<ESMA\_QUESTION\_FAC\_55>

Yes we agree.

<ESMA\_QUESTION\_FAC\_55>

1. : What is the overall impact of the proposed technical advice, especially in terms of costs to issuers and benefits to investors? If you have indicated that it will pose additional costs for issuers, please provide an estimate and indicate their different type (e.g. extra staff costs, advisor costs, etc.) and nature (one-off vs. ongoing costs).

<ESMA\_QUESTION\_FAC\_56>

Please refer to introduction.

<ESMA\_QUESTION\_FAC\_56>

1. : Do you agree with the proposal relating to the asset backed securities building block?

<ESMA\_QUESTION\_FAC\_57>

Yes we agree.

<ESMA\_QUESTION\_FAC\_57>

1. : Do you agree with the proposal to allow reduced disclosure where the securities comprising the assets are listed on an SME Growth Market?

<ESMA\_QUESTION\_FAC\_58>

<ESMA\_QUESTION\_FAC\_58>

1. : What is the overall impact of the proposed technical advice, especially in terms of costs to issuers and benefits to investors? If you have indicated that it will pose additional costs for issuers, please provide an estimate and indicate their different type (e.g. extra staff costs, advisor costs, etc.) and nature (one-off vs. ongoing costs).

<ESMA\_QUESTION\_FAC\_59>

Please refer to introduction.

<ESMA\_QUESTION\_FAC\_59>

1. : Do you agree with the amendments to the pro forma building block? Should any further amendments be made to this annex? Please advise of any costs and benefits implied by the further changes you propose.

<ESMA\_QUESTION\_FAC\_60>

Generally speaking, we agree with the amendments to the proforma building block.

<ESMA\_QUESTION\_FAC\_60>

1. : Do you agree that the additional building block for guarantees does not need to change other than the minor amendments proposed by ESMA?

<ESMA\_QUESTION\_FAC\_61>

We disagree with any requirement to publish this type of contract on the website because they are usually included in more general contracts regulating other activities too. As indicated in the outstanding regulation, we prefer to maintain a reference to ”places”.

<ESMA\_QUESTION\_FAC\_61>

1. : Do you think that depository receipts are similar enough to equity economically to require the inclusion of a working capital statement and / or a capitalisation and indebtedness statement? Please advise of any costs and benefits that would be incurred as a result of this additional disclosures.

<ESMA\_QUESTION\_FAC\_62>

TYPE YOUR TEXT HERE

<ESMA\_QUESTION\_FAC\_62>

1. : What is the overall impact of the proposed technical advice, especially in terms of costs to issuers and benefits to investors? If you have indicated that it will pose additional costs for issuers, please provide an estimate and indicate their different type (e.g. extra staff costs, advisor costs, etc.) and nature (one-off vs. ongoing costs).

<ESMA\_QUESTION\_FAC\_63>

Please refer to introduction.

<ESMA\_QUESTION\_FAC\_63>

1. : Do you agree with the changes proposed by ESMA for collective investment undertakings?

<ESMA\_QUESTION\_FAC\_64>

TYPE YOUR TEXT HERE

<ESMA\_QUESTION\_FAC\_64>

1. : Is greater alignment with the requirements of AIFMD necessary? If so, where?

<ESMA\_QUESTION\_FAC\_65>

TYPE YOUR TEXT HERE

<ESMA\_QUESTION\_FAC\_65>

1. : Do you agree with the proposal to allow reduced disclosure where the securities issued by the underlying issuer/collective investment undertaking/counterparty are listed on an SME Growth Market?

<ESMA\_QUESTION\_FAC\_66>

TYPE YOUR TEXT HERE

<ESMA\_QUESTION\_FAC\_66>

1. : What is the overall impact of the proposed technical advice, especially in terms of costs to issuers and benefits to investors? If you have indicated that it will pose additional costs for issuers, please provide an estimate and indicate their different type (e.g. extra staff costs, advisor costs, etc.) and nature (one-off vs. ongoing costs).

<ESMA\_QUESTION\_FAC\_67>

Please refer to introduction.

<ESMA\_QUESTION\_FAC\_67>

1. : Do you consider that any changes are required to the existing regime for convertible and exchangeable securities? If so, please specify.

<ESMA\_QUESTION\_FAC\_68>

TYPE YOUR TEXT HERE

<ESMA\_QUESTION\_FAC\_68>

1. : Do you consider that any other types of specialist issuers which should be added? If so, please specify.

<ESMA\_QUESTION\_FAC\_69>

TYPE YOUR TEXT HERE

<ESMA\_QUESTION\_FAC\_69>

1. : Do you agree with ESMA’s proposal not to develop a schedule for securities issued by public international bodies and for debt securities guaranteed by a Member State of the OECD?

<ESMA\_QUESTION\_FAC\_70>

TYPE YOUR TEXT HERE

<ESMA\_QUESTION\_FAC\_70>

1. : Do you agree that the URD disclosure requirements should be based on the share registration document plus additional disclosure items?

<ESMA\_QUESTION\_FAC\_71>

We agree that the URD disclosure requirements should be based on the share registration document but, we should take into account the fact that some information is not easy to provide for issuers without experience in drafting URD.

<ESMA\_QUESTION\_FAC\_71>

1. : Should the URD schedule contain any further disclosure requirements?

<ESMA\_QUESTION\_FAC\_72>

There should be no further disclosure requirements.

<ESMA\_QUESTION\_FAC\_72>

1. : What is the overall impact of the proposed technical advice, especially in terms of costs to issuers and benefits to investors? If you have indicated that it will pose additional costs for issuers, please provide an estimate and indicate their different type (e.g. extra staff costs, advisor costs, etc.) and nature (one-off vs. ongoing costs).

<ESMA\_QUESTION\_FAC\_73>

Please refer to introduction.

<ESMA\_QUESTION\_FAC\_73>

1. : Do you consider that the proposed disclosure is sufficiently alleviated compared to the full regime? If not, where do you believe that additional simplification can be made? Please advise of any costs and benefits implied by the further changes you propose.

<ESMA\_QUESTION\_FAC\_74>

With reference to major shareholders, ESMA’s proposal to delete such information in the case of secondary issuance regime for non-equity securities seems to be inconsistent with the provisions of article 7 paragraph 6 of the Prospectus Regulation which states that major shareholders disclosure should be included in the summary.

Furthermore, we suggest that the last bullet point in item 5.1 on registration document of secondary issuance (Annex 18) should only refer to the equity securities issues in keeping with the requirements of the standard registration document for the debt/derivatives securities (Annex 3*).*

<ESMA\_QUESTION\_FAC\_74>

1. : Should secondary disclosure differ depending on whether the issuer is listed on a regulated market or on an SME Growth Market?

<ESMA\_QUESTION\_FAC\_75>

TYPE YOUR TEXT HERE

<ESMA\_QUESTION\_FAC\_75>

1. : Do you consider that item 9.3 (information on corporate governance) is necessary?

<ESMA\_QUESTION\_FAC\_76>

TYPE YOUR TEXT HERE

<ESMA\_QUESTION\_FAC\_76>

1. : Do you consider that information on material contracts is necessary for secondary issuance?

<ESMA\_QUESTION\_FAC\_77>

Item 14.1 in Annex 18 seems to be too generic and does not differentiate between equity and non-equity securities. For non-equity securities, in keeping with the requirements of the standard registration document for the debt/derivatives securities (Annex 3), it should be limited to all material contracts “…that are material to the issuer’s ability to meet its obligation to security holders in respect of the securities being issued”.

<ESMA\_QUESTION\_FAC\_77>

1. : What is the overall impact of the proposed technical advice, especially in terms of costs to issuers and benefits to investors? If you have indicated that it will pose additional costs for issuers, please provide an estimate and indicate their different type (e.g. extra staff costs, advisor costs, etc.) and nature (one-off vs. ongoing costs).

<ESMA\_QUESTION\_FAC\_78>

TYPE YOUR TEXT HERE

<ESMA\_QUESTION\_FAC\_78>

1. : Do you consider that there is further scope for alleviated disclosure in the securities note ? Please advise of any costs and benefits implied by the further changes you propose.

<ESMA\_QUESTION\_FAC\_79>

<ESMA\_QUESTION\_FAC\_79>

1. : Is a single securities note, separated by security type, clear or would it be preferable to have multiple securities note schedules?

<ESMA\_QUESTION\_FAC\_80>

Kindly check that (also in categories A, B and C) annex 19 for the secondary issuance is consistent with the corresponding standard securities note annex for the relevant financial instrument (equity, non-equity retail and non-equity wholesale.

<ESMA\_QUESTION\_FAC\_80>

1. : What is the overall impact of the proposed technical advice, especially in terms of costs to issuers and benefits to investors? If you have indicated that it will pose additional costs for issuers, please provide an estimate and indicate their different type (e.g. extra staff costs, advisor costs, etc.) and nature (one-off vs. ongoing costs).

<ESMA\_QUESTION\_FAC\_81>

TYPE YOUR TEXT HERE

<ESMA\_QUESTION\_FAC\_81>