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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 | Irish Debt Securities Association |
| Activity | Other Financial service providers |
| Are you representing an association? |  |
| Country/Region | Ireland |

# Introduction

Please make your introductory comments below, if any:

<ESMA\_COMMENT\_FAC\_1>

The Irish Debt Securities Association (“**IDSA**”) welcomes the opportunity to contribute to ESMA’s Consultation on format and content of the prospectus.

IDSA is an industry organisation established with the aim of promoting and developing the environment and infrastructure in Ireland to support the global structured finance, debt securities and the specialist securities industries. IDSA promotes a responsible, sustainable and effective environment within which debt securities and other specialist securities can be used to facilitate transactions, to create investment products and to raise capital funding. IDSA aims to achieve its mission by representing all industry participants, promoting high standards of professional conduct among industry service providers and leading the industry activity to develop and provide a world-leading environment for structured finance transactions and for the issuance of debt securities and other specialist securities. The membership of IDSA includes the corporate administrators, trustees, audit firms, legal advisors, listing agents, and other parties involved in the structuring and management of Special Purpose Vehicles ("**SPVs**") in the industry in Ireland.

<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>

There is some uncertainty as what is being referred to and included in the “cover note” and further guidance on this would be helpful. If what is being referred to is the first few pages of a prospectus then current practice seems to work well and we feel there is no need to change. Also, we don’t think that including a page limit would be appropriate.

<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>

TYPE YOUR TEXT HERE

<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 think issuers should be free to determine the location of risk factors but if it were to be prescribed we would suggest including the risk factors after the summary section

<ESMA\_QUESTION\_FAC\_3>

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

<ESMA\_QUESTION\_FAC\_4>

To support and assist investor understanding we think there should be a common approach to the URD.

<ESMA\_QUESTION\_FAC\_4>

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

<ESMA\_QUESTION\_FAC\_5>

From our experience a use of proceeds section is generally already included.

<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>

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<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>

TYPE YOUR TEXT HERE

<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>

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<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 don’t have a strong view as to whether the scope of the NCA approval should be included in the cover note. However, it is worth noting that the relevant guidance for the cover note says it will not include legal disclaimers, and it has been mentioned that the required statement clarifying that the relevant CA has not endorsed the issuer could be considered itself to constitute a legal disclaimer.

<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>

TYPE YOUR TEXT HERE

<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>

Website: Equity issuers and issuers of debt are likely to have an active website and should, generally speaking, not have a problem including their website address in the prospectus. However, there is a risk that investors might seek to claim that they have relied on additional information available on the issuer's website, notwithstanding a disclaimer in the prospectus which raises a liability concern.  In addition, having the requirement will also potentially impose an obligation on issuers to actively manage and update their websites on a constant basis which raises cost implications. Finally, as the issuer will have already complied with the relevant annexes of the PD, investors should have sufficient information within the prospectus in order to make an informed decision before investing.

However; where an issuer does not have a website e.g. SPV issuers of ABS it is unlikely that they would be willing to set up a website solely for the purpose of seeking a listing. For a number of reasons including:

* Due to the limited activities of an SPV there is no apparent value to having a website for an SPV
* An SPV does not have employees and therefore would not have the capabilities to maintain a website. It is unlikely that the corporate service providers would be willing to take on the risk of maintaining the issuer's website.
* Cost implications of setting up and maintaining the website

We are strongly of the view that any requirement to include a website address **should not apply** **to SPV issuers**.

Documents Available Electronically: In principle, we would support the electronic availability of documents on display as it would provide ease of access to information. However, such a requirement would bring compliance, cost and potential liability issues. Other considerations would include;

* Commercially sensitive documents – issuers should have discretion to make such additional transaction documents (which might be more sensitive) available for inspection in hard copy only.
* There will be resistance from experts to the electronic availability of their reports.
* For issuers that do not have websites e.g. SPV issuers they would have to use a third party website and this would incur costs.

<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>

TYPE YOUR TEXT HERE

<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>

TYPE YOUR TEXT HERE

<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>

We think that the inclusion of an outstanding profit forecast should not be mandatory for non-equity issuance (whether retail or wholesale) and it should remain that non-equity issuers have discretion as to whether to include an outstanding profit forecast. A profit forecast can be of limited value (unless the forecast is so extreme that it will impact an issuer’s ability to make payments on the bonds) and so in many instances, it would be unnecessary to include an outstanding profit forecast in the prospectus. However, if a profit forecast has been produced specifically for the purposes of marketing the securities, then the issuer should have discretion to include such profit forecast in the prospectus.

Yes, we agree with the deletion of the obligation to include an accountant’s or an auditor’s report for equity and retail non-equity on the basis of (i) the increase in cost for producing a prospectus, (ii) that an issuer is more likely to not include an outstanding profit forecast in the prospectus (where there is the option not to) due to the burden of producing an accountant’s or auditor’s report and (iii) that, where an issuer must include an outstanding profit forecast, the inability of or burden on the issuer to include an accountant’s or auditor’s report may prevent the issuer from producing a 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>

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<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>

TYPE YOUR TEXT HERE

<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>

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<ESMA\_QUESTION\_FAC\_17>

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

<ESMA\_QUESTION\_FAC\_18>

TYPE YOUR TEXT HERE

<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>

TYPE YOUR TEXT HERE

<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>

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<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>

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<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>

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<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>

TYPE YOUR TEXT HERE

<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>

TYPE YOUR TEXT HERE

<ESMA\_QUESTION\_FAC\_24>

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

<ESMA\_QUESTION\_FAC\_25>

TYPE YOUR TEXT HERE

<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>

TYPE YOUR TEXT HERE

<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>

TYPE YOUR TEXT HERE

<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>

We agree with the proposal to delete disclosure on investments. However; with respect to a requirement to provide details on the issuer’s funding structure and borrowing requirements and while we understand the benefit of the disclosure, we think it could be potentially very onerous. It is a very open-ended statement and does not reference or stipulate a time frame and we think it may be difficult for issuers to provide this detail.

<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>

Yes, we agree with this.

<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>

Yes we agree (see response to Question 14). In the case of debt issuers, it would be extremely rare to include a profit forecast or estimate in the prospectus so this change would not affect the informative value of the prospectus. However, there may be some instances where an issuer might include a profit forecast or estimate under the new regime because it is less onerous to do so and because an accountant’s or auditor’s report is no longer required.

<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>

See response to Question 14

<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 support the deletion of the disclosure requirement related to board practices as we consider it was of limited benefit to investors.

<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>

We feel that the more prescriptive approach on Risk Factors will be difficult for issuers to comply with.

We disagree with the requirement that the Issuer must include its website. Many issuers of debt securities may be financing subsidiaries and will not have a website. Also with no stipulation on what is included in websites or what language they are, they may be of little benefit if any. There is also a concern that you would be potentially implying that there is information useful to the investors which is not in the prospectus, whereas the details and disclosure within the prospectus should be sufficient.

We note that 8.1 has been (merged with 13.7) however 13.7 is still in place. There are various references to "significant change in financial performance" and "significant change in financial position" which are confusing and we think these could be merged and/or streamlined.

<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>

We consider that the additional detail required could increase drafting costs and thus dissuade issuances.<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 support the removal of the requirement for wholesale non-equity issuers to restate their financial statements.  This requirement has caused significant expense for certain issuers to date which it has been argued, has been unnecessary given the target audience of sophisticated knowledgeable investors. The removal of this requirement will not significantly affect the informative value of the prospectus as investors will continue to be provided with the most recent, 2 years, audited financial statements of the issuer and the target investors should also be capable of interpreting and understanding the financial statements that follow albeit that they will be presented using a new accounting standard. <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>

It appears that Item 7.1, which is noted to be merged with 11.6, has not been so merged. As such, we would suggest that Item 11.6 be removed as 7.1 (b) addresses the same disclosure concern as 11.6.

Item 8, Profit Forecast: We welcome the maintenance of the option to include a profit forecast for issuers of wholesale debt, any change to this would be unwelcome.

With reference to Item 14 (a)&(b), we disagree that reports, letters, valuations and statements prepared by experts should be made available on a website.  Such information will already have been captured in the body of the prospectus and is sensitive information that should not be freely downloadable from a weblink.<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>

The overall impact of the proposed technical advice is to be welcomed as the removal of the requirement to restate financial statements will reduce costs.

However, with reference to Items 4.1.4 and 14(a)&(b), for issuers who have not created a website there would be a significant expense incurred in the establishment and maintenance of a website which may prove to be a prohibitive cost particularly to smaller issuers coming to market.<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 way in which disclosure on taxation has been reduced. And no, a warning is appropriate.

<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>

Yes. There are potential negative consequences for SPVs, which typically do not have websites on which to post documents. Where it is not feasible for the document to be published on the website of one of the transaction parties, the document may need to be posted to the website of a third party which will result in costs being incurred, however; we at this stage we are unable to provide a reasonable estimation of the additional cost.

Also, the wording should also perhaps make it clearer where on a website the document will be available. As such we would suggest the wording be amended as follows; “The address of the website and, where appropriate, an indication of the relevant section of the website where the public may have free access to the contracts relating to these forms of representation“

<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>

No. We don’t think that expenses charged to the purchaser should also include implicit costs. Also, as the disclosure requires “the amount”, the amount of the “implicit costs” might be difficult to quantify.

<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

<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>

No. The Securities Note regime works well in its current form. <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>

We think the proposed updates to the Securities Note disclosure requirements are appropriate and proportionate in terms of costs to issuers and benefits to investors.

<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>

Item 4.11 proposes inclusion of a website where investors may have free access to the contracts relating to representation of noteholders. We think that access to such documentation should not be available via a website, or at a minimum should be password protected.

Item 4.14: New annex item "If different from the issuer, the identity and contact details of the offeror of the securities and/or the person asking for admission to trading, including LEI where the offeror has legal personality". We are unsure as to who is being referred to here and further clarification would be helpful. <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>

Item 4.11 implies the availability of a website and in the cases where no website is available, there are establishment and maintenance costs etc. <ESMA\_QUESTION\_FAC\_45>

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

<ESMA\_QUESTION\_FAC\_46>

Yes, we agree with the proposal to make derivate disclosures a building block.

<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>

We have not encountered any particular issues with this and would prefer to maintain the current position. <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>

This would be a very substantial change that could make it extremely difficult for certain trades to list on a regulated market. The requirement to require registration document level information, relating to an issuer which does not have securities listed on a regulated or equivalent market, would put such an onus on the Issuer that such trades would not be able to list on a regulated market. It may not possible for the Issuer to obtain sufficient information on a reference asset to satisfy the disclosure regime (i.e. registration document level disclosure). If such a requirement was to be even considered it should be confined to issuances to retail investors..

<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>

No. We think there should be the same disclosure for both.<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 consider that the opportunity should be taken to renumber the entire Annex to make it easier to identify the constituent parts. Currently within 4.2.2 there are four references to "(a)".

<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>

As mentioned in Q.48 we feel that the change to 4.2.2 would render certain trades too difficult to document and would add significantly to cost and lead time.

<ESMA\_QUESTION\_FAC\_51>

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

<ESMA\_QUESTION\_FAC\_52>

TYPE YOUR TEXT HERE

<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>

TYPE YOUR TEXT HERE

<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>

Yes. We 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>

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

<ESMA\_QUESTION\_FAC\_55>

With reference to item 4.2 we strongly welcome the reference to an LEI code being included “**if any**”. A significant number of SPVs who are obliged to comply with Annex X have no reason to obtain an LEI code as they are not referenced by EU securities legislation, or indeed any other requirement, to obtain one. Accordingly the option to include an LEI code if available should be maintained so as to avoid the imposition of such costs unnecessarily on an issuer.

As regards item 4.5, we strongly encourage either the removal of the reference to a website OR the inclusion of the term "if any". An issuer of asset-backed securities, by its nature, mandates third party service providers to perform roles on its behalf and it does not have a website.

With reference to Item 8.2a, we welcome the removal of the requirement for wholesale non-equity issuers to restate their financial statements. The removal of this requirement will reduce the costs of an issuer coming to market and will also speed up the offer and listing process.

We disagree with Item 10.1(a)&(b), which links into Item 4.5, and which proposes the inclusion of a website on which documents will be made available for inspection. As highlighted, an SPV does not operate its own website and therefore we would encourage to revert to the current language i.e. that documents may be made available for inspection in physical or electronic form at a specific office.

With reference to Item 10.1(b), we disagree that reports, letters, valuations and statements prepared by experts should be made available on a website. Such information will already have been captured in the body of the prospectus and is sensitive information that should not be freely downloadable from a weblink. <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>

The proposal to require a website is not feasible for an issuer of asset-backed securities. As has been highlighted a number of times, SPVs don’t have websites and any requirement for one or access to one will incur costs and we would be strongly concerned that such a requirement would drive a significant number of ABS issuers away from listing on an EU regulated market, if they have a choice not to. It is also not feasible to expect any other party to the ABS transaction to assume responsibility for electronic availability of documents. We strongly support the current language as regards availability of documentation from a specified office to be maintained. <ESMA\_QUESTION\_FAC\_56>

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

<ESMA\_QUESTION\_FAC\_57>

We would agree with certain of the measures but would question some others.

* We would agree with the change in the categorisation of Item 2.2.2(a) from A to C and we would agree that this aligns the disclosure with 2.2.11(b).
* We would consider that under 2.2.11(a) it would be best to allow us to use the Asset Backed Registration Document where the underlying obligor is an asset backed issuer. We would agree that under 2.2.11(a) and 2.2.11(b) that we can disclose on either the obligor or its guarantor.
* We would consider that the new requirement for an electronic link to where documentation on the obligations can be found could be burdensome particularly as it does not specify what documentation may be required. Even if this relates to prospectuses under the Prospectus Directive, if the issuance was prior to 2012 then there would be no requirement that same be published. The same issue could arise with regard to equivalent markets where they may have other publication requirements. We would consider that the disclosure regime under the Prospectus Directive should be robust enough to allow investors rely on it without having to access documentation which could be many years old.
* We note the inclusion in 2.2.15 of the reference to the registration document of a collective investment scheme. This is welcome but it would be a positive development to allow use of the UCITS disclosure regime where the underlying was a UCITS.
* We consider that it would be important to retain "if necessary" with regard to the requirement of a structure diagram under item 3.1.
* We feel that the requirement that there be post-issuance information is somewhat onerous. While it is understandable for securitisations, it would be a new imposition on numerous other types of issuances that avail of the asset backed building block. The current disclosure point informs investors whether they will receive such information and we feel that they can make their investment on this basis.
* In relation to the proposal to make post issuance reporting no longer optional for securitisation (in alignment with the draft Securitisation Regulation), we do not feel that a disclosure item in an annex is the appropriate medium to enforce on-going reporting requirements on an issuer. For example, how might this be applied to non-EU transactions that will not be subject to the Securitisation Regulation?

<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>

Yes, we 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>

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>

While some of the suggestions are positive or neutral, we do have some concerns that certain new rules could dissuade issuers from seeking approval under this regime.

<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>

TYPE YOUR TEXT HERE

<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>

TYPE YOUR TEXT HERE

<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>

TYPE YOUR TEXT HERE

<ESMA\_QUESTION\_FAC\_63>

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

<ESMA\_QUESTION\_FAC\_64>

Yes and in particular, the ability of Issuers (in the case of master-feeder structures) to provide reduced disclosure on the underlying fund - where it is not reasonably possible to obtain the relevant underlying fund information - is a positive development.

<ESMA\_QUESTION\_FAC\_64>

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

<ESMA\_QUESTION\_FAC\_65>

No, the proposed amendment is appropriate and proportionate

<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>

Yes and it is also suggested that it would be appropriate to allow reduced disclosure where the securities are issued by an underlying fund that is listed on any MTF (such as the Global Exchange Market of the ISE).

<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>

As the changes to Annex 15 are relatively minor, we do not anticipate any major impact on CEIF issuers.

<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>

TYPE YOUR TEXT HERE

<ESMA\_QUESTION\_FAC\_71>

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

<ESMA\_QUESTION\_FAC\_72>

TYPE YOUR TEXT HERE

<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>

TYPE YOUR TEXT HERE

<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>

TYPE YOUR TEXT HERE

<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>

TYPE YOUR TEXT HERE

<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>

TYPE YOUR TEXT HERE

<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>

TYPE YOUR TEXT HERE

<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>