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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 | The Association of Investment Companies |
| Activity | Regulated markets/Exchanges/Trading Systems |
| Are you representing an association? |  |
| Country/Region | UK |

# Introduction

Please make your introductory comments below, if any:

<ESMA\_COMMENT\_FAC\_1>

The Association of Investment Companies (AIC) is a trade body for the closed-ended investment company sector. We represent over 350 investment companies, managing assets of over £155 billion. The AIC’s members are predominantly listed on the Main Market of the London Stock Exchange. Some have shares admitted to trading on the Specialist Fund Segment; others are quoted on AIM.

The AIC’s members include investment trusts, Venture Capital Trusts, UK REITs and non-EU companies. Our non-EU members are primarily domiciled in Guernsey and Jersey.

Investment companies are closed-ended funds that invest in a diversified portfolio, which may include quoted and unquoted shares, infrastructure, property and other assets, to provide shareholders with an investment return. Where investment companies are admitted to trading on regulated markets they are subject to the Prospectus Regulation and Transparency Directive. As companies, they are also subject to other rules such as company law and accounting standards. They are also AIFs and therefore have regulatory obligations under the Alternative Investment Fund Managers Directive (AIFMD).

Investment companies have an interest in the impact of the Prospectus Regulation as both issuers and investors.

The AIC welcomes the opportunity to respond to the ESMA’s consultation on the draft technical advice on format and content of the prospectus and supports its ambition to alleviate the existing disclosure requirements, particularly for secondary issuances.

Please see our responses to the relevant questions in the consultation paper below.

<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>

The AIC does not agree that it is “*standard practice*” to provide a cover note. Nor does it agree with the assertion “*that prospectuses do not start with the table of contents*”. Some prospectuses do start in this way.

Given ESMA’s objective is to alleviate compulsory burdens, it is unclear why it is proposing additional regulation of a voluntary disclosure and suggests it be mandated. The AIC **recommends** the proposal to mandate the use of a cover note and limit this to three pages is not adopted.

A compulsory, regulatory cover note will not provide any additional useful information to investors or additional regulatory protection. The summary provides relevant, high-level information for investors. Duplication of certain aspects of the summary will add unnecessary additional cost and regulatory burden on companies without providing investors with any meaningful benefit.

If issuers wish to include a cover note they should continue to be able to as they do currently, but for companies which do not make use of cover notes, this should not be mandated.

<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>

The location of risk factors should not be prescribed in legislation. Issuers should be free to determine where this best fits in the prospectus given the individual circumstances of the prospectus. Mandating the location of this section is unnecessary and does not achieve the aims of the consultation to alleviate regulatory burdens on issuers whilst not impacting on the information that investors receive.

<ESMA\_QUESTION\_FAC\_3>

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

<ESMA\_QUESTION\_FAC\_4>

TYPE YOUR TEXT HERE

<ESMA\_QUESTION\_FAC\_4>

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

<ESMA\_QUESTION\_FAC\_5>

No. Creating a “use of proceeds” section will increase, not alleviate, compliance burdens for no benefit.

Information about the use of proceeds in any transaction will be evidenced throughout the prospectus. Additionally, the summary makes it clear to investors how the proceeds will be used.

The proposal to require a separate section to describe this will duplicate information that is already in the prospectus, and result in unnecessary additional regulatory and cost burdens being incurred by the company.

Any prospectus is required to be voted on by shareholders. If issuers do not provide sufficient information about this, shareholders will not vote in favour of the transaction.

The AIC **recommends** this proposal is not taken forward.

<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>

TYPE YOUR TEXT HERE

<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>

The AIC agrees that the definitions proposed to be carried over and the new definitions are adequate. No further definitions should be added. The current definitions are operating effectively and the new definitions provide some helpful clarification.

<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>

TYPE YOUR TEXT HERE

<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>

TYPE YOUR TEXT HERE

<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>

Yes. The AIC **recommends** the requirement to disclose selected financial information is removed. The information contained in the selected financial information section is duplicated elsewhere in the prospectus. Reproducing it does not provide any benefit to investors and lengthens the prospectus unnecessarily.

<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>

TYPE YOUR TEXT HERE

<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>

Yes, this reduces costs to issuers. Information in the OFR is already required of issuers in their annual report and accounts and therefore reproducing it in a prospectus is relatively easy. The previous requirements for the operating and financial review are similar but not the same. Unless these requirements are updated and aligned to the wording in the Accounting Directive, issuers will incur additional regulatory costs to ensure they meet both requirements. These costs will be created without any compensating benefits to investors. The AIC **recommends** this proposal is adopted.

<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>

TYPE YOUR TEXT HERE

<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>

Yes. The AIC **recommends** this proposal is adopted. Reproducing the wording of any ‘emphasis of matter’ identified in the audit report will ensure there is alignment with the types of audit report an auditor can issue.

<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>

TYPE YOUR TEXT HERE

<ESMA\_QUESTION\_FAC\_17>

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

<ESMA\_QUESTION\_FAC\_18>

Yes. The AIC **recommends** this proposal is adopted. This clarification is helpful and will prevent issuers incurring unnecessary costs to restate their financial statements when changes have been made to an IFRS requirement. The AIC agrees that this was not the intention of the original rules.

<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>

The AIC **agrees** with the proposed alleviation of rules regarding an issuer’s memorandum and articles of association. Investors generally have access to these documents electronically, and it is unnecessary for investors, and costly for issuers, to duplicate this information in a prospectus.

<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>

The proposed amendment in item 18.1 of Annex 1 (the share registration document) states that notifiable major shareholders’ interests together with the amount of each such person’s interest should be stated in the share registration document “*as at the date of the registration document*”.

The AIC **recommends** this is amended to state “*as at the latest practicable date*” rather than the date of the registration document. The Transparency Directive includes certain requirements to disclose transactions in major shareholdings within a certain number of trading days. It is important that the ‘time-lag’ for this disclosure is taken into account when drafting the wording in this Annex.

Additionally, this will ensure that there is sufficient time to make the appropriate changes and allow time for the administrative processes required to publish a share registration document, such as getting it sent to the printers and the proof being checked, to be performed in a timely manner.

The AIC also **recommends** the references in paragraph 14.2 are updated to all relate to item 14.1 rather than to item A1.14.1 and A1.4.1.

<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>

TYPE YOUR TEXT HERE

<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>

TYPE YOUR TEXT HERE

<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>

TYPE YOUR TEXT HERE

<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>

TYPE YOUR TEXT HERE

<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>

TYPE YOUR TEXT HERE

<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>

TYPE YOUR TEXT HERE

<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>

TYPE YOUR TEXT HERE

<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>

TYPE YOUR TEXT HERE

<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>

TYPE YOUR TEXT HERE

<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>

TYPE YOUR TEXT HERE

<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>

TYPE YOUR TEXT HERE

<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>

TYPE YOUR TEXT HERE

<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>

TYPE YOUR TEXT HERE

<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>

TYPE YOUR TEXT HERE

<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>

TYPE YOUR TEXT HERE

<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>

TYPE YOUR TEXT HERE

<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>

TYPE YOUR TEXT HERE

<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>

TYPE YOUR TEXT HERE

<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>

TYPE YOUR TEXT HERE

<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>

TYPE YOUR TEXT HERE

<ESMA\_QUESTION\_FAC\_45>

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

<ESMA\_QUESTION\_FAC\_46>

TYPE YOUR TEXT HERE

<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>

TYPE YOUR TEXT HERE

<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>

TYPE YOUR TEXT HERE

<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>

TYPE YOUR TEXT HERE

<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>

TYPE YOUR TEXT HERE

<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>

TYPE YOUR TEXT HERE

<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, the AIC **agrees** this 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>

TYPE YOUR TEXT HERE

<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>

TYPE YOUR TEXT HERE

<ESMA\_QUESTION\_FAC\_56>

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

<ESMA\_QUESTION\_FAC\_57>

TYPE YOUR TEXT HERE

<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>

TYPE YOUR TEXT HERE

<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>

TYPE YOUR TEXT HERE

<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>

The AIC **agrees** with the proposed amendments to the contents of the pro forma 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>

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, the AIC **agrees** with the proposed amendments. In particular, we support the amendments in section 1 which will align the wording of the requirements to disclose an investment objective and policy with the wording in the AIFMD. This will simplify the requirements for issuers subject to both the Prospectus Regulation and the AIFMD and reduce the cost burdens they may incur from having slightly different obligations under the two regulations.

<ESMA\_QUESTION\_FAC\_64>

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

<ESMA\_QUESTION\_FAC\_65>

Yes, item 1.2 in Annex 15 regarding collective investment undertakings of the closed-ended type registration document should be amended. This currently refers to ‘borrowing limits’ being disclosed. However, the AIFM regulation requires ‘leverage limits’ to be set out in the AIF’s offering documents. It would be helpful to align these requirements.

<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>

TYPE YOUR TEXT HERE

<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>

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<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>

The AIC **recommends** that item 2.1 is deleted. The names of the issuer’s auditor for the period covered by the annual financial information is already provided in the annual financial information. There is no reason to require this to be stated separately in the registration document for secondary issuances.

The AIC **recommends** that item 5.2.1 is amended as follows *“…and which are in progress ~~and /~~ or for which firm commitments have already been made, together with the ~~anticipated source of funds~~ method of financing.*” this will align the requirement with the wording in item 6.6.2 Annex 1 the share registration document.

The AIC **recommends** that item 8.3 is deleted. See our response to question 76.

In line with our comment in question 20, the AIC **recommends** item 9.1 is amended to state “*as at the latest practicable date*” rather than the date of the registration document. The Transparency Directive includes certain requirements to disclose transactions in major shareholdings within a certain number of trading days. It is important that the ‘time-lag’ for this disclosure is taken into account when drafting the wording in this Annex.

Additionally, this will ensure that there is sufficient time to make the appropriate changes and allow time for the administrative processes required to publish a share registration document, such as getting it sent to the printers and the proof being checked, to be performed in a timely manner.

The AIC **recommends** that item 14.1 is deleted. See our response in question 77.

The AIC also **recommends** that a series of clarificatory/technical amendments be made to the wording in Annex 18 to align it to the wording in Annex 1:

* The wording in paragraph 1.3 of Annex 18 should align with the wording in paragraph 1.3 of Annex 1, such that it reads “… *included in the Registration Document, provide such person’s*:…”
* The wording in paragraph 1.5 of Annex 18 should align with the wording in paragraph 1.5 of Annex 1, such that it reads “… *of the issuer that is the subject of* …”
* The references in paragraph 8.2 of Annex 18 should be to paragraph 8.1 and not to paragraph 9.1 (major shareholders).
* The reference in paragraph 10 of Annex 18 to “*financial statements*” should make clear that this means both annual and half-yearly financial statements because there is a requirement to put details of material related party transactions in half-yearly financial statements under accounting standards.

<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>

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<ESMA\_QUESTION\_FAC\_75>

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

<ESMA\_QUESTION\_FAC\_76>

No. The AIC **recommends** this is deleted. It is unlikely that there will be material impacts on the corporate governance of a company when it is performing a secondary issuance. This is more likely to arise when there is a merger of two companies. Additionally, there is no benefit in disclosing to investors “*potential*”material impacts on the corporate governance when they have not been confirmed.

<ESMA\_QUESTION\_FAC\_76>

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

<ESMA\_QUESTION\_FAC\_77>

No. The AIC **recommends** this is deleted. Information on material contracts will be disclosed in the company’s initial prospectus and, where relevant, in the company’s annual report and accounts. Providing a summary of material contracts in the secondary prospectus will increase the regulatory and cost burdens on the issuer and not provide a significant benefit to investors. Issuers are only able to take advantage of the secondary issuance regime if they have been trading on a regulated market or SME Growth Market for a period of at least 18 months. Therefore, investors will already have access to a significant amount of information about the company, including information on material contracts.

<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>

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<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>

The AIC **recommends** that item 5.2.3 on Annex 19 be deleted. Securities in the company will already be traded on a public market and the issuer will already subject to Transparency Directive requirements so information about major shareholdings will be in the public domain. The proposal to require disclosure of “*whether major shareholders of the issuer’s management, supervisory or administrative bodies intends to subscribe in the offer*” or whether “*any person intends to subscribe for more than 5% of the offer*” is not useful information for shareholders as it only informs them about what is happening for this issue which may not give a fair or accurate representation of the major shareholders’ overall holding in the company.

The AIC **recommends** that a series of clarificatory/technical amendments be made to the wording in Annex 19 to align it to the wording in Annex 2:

* The wording in paragraph 3.4 of Annex 19 should align with the wording in paragraph 3.2 of Annex 2, such that it refers to “*collateralised and non-collateralised loans*” rather than to secured and unsecured indebtedness.
* The wording in paragraph 5.4.3 of Annex 19 should be aligned with the wording in paragraph 6.1 of Annex 2, so the words “*other equivalent*” should be deleted.
* The wording in paragraph 5.4.4 of Annex 19 should be aligned with the wording in paragraph 6.2 of Annex 2, so the word “*equivalent*” should be deleted.
* The wording in paragraph 9.2 of Annex 19 should be aligned with the wording in paragraph 9.2 of Annex 2, so a reference to paragraph 9.1 should be added to read “*(in addition to the situation in 9.1 where they do not),*”

<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>

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<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>

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<ESMA\_QUESTION\_FAC\_81>