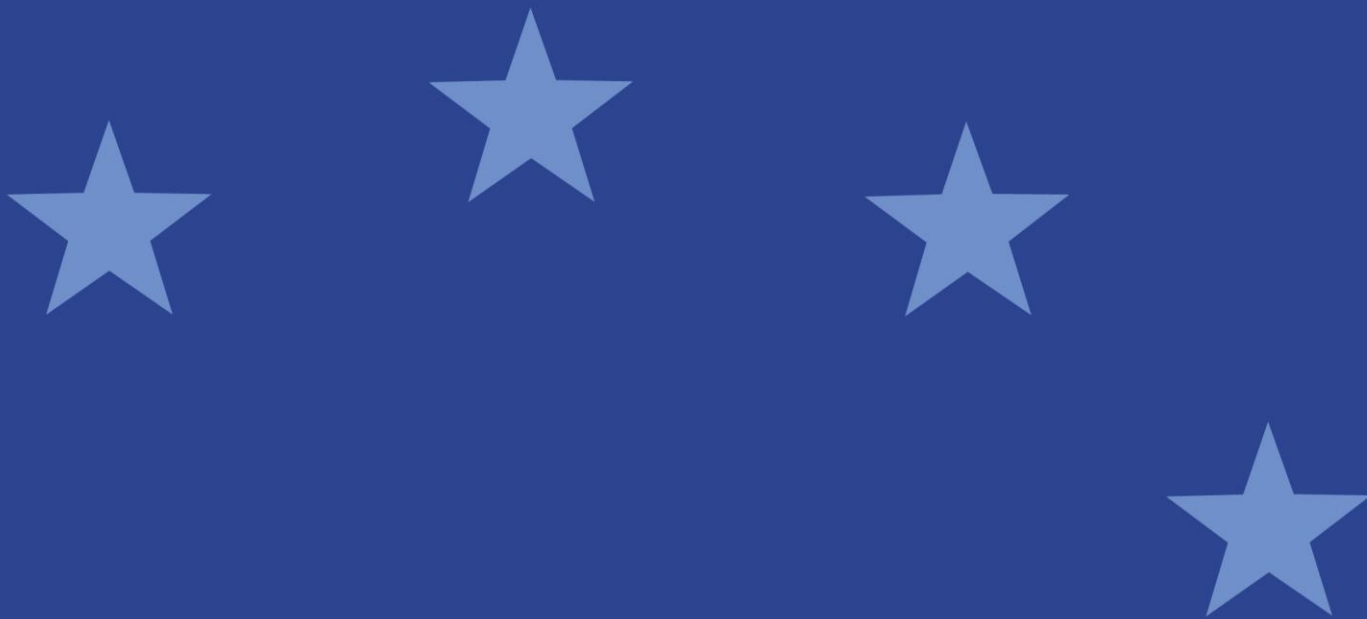




European Securities and
Markets Authority

Response form for the Consultation Paper on EU Growth prospectus



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:

4. Insert your responses to the questions in the Consultation Paper in the form “Response form_Consultation Paper on EU Growth prospectus”, available on ESMA’s website alongside the present Consultation Paper (www.esma.europa.eu → ‘Your input – Open consultations’ → ‘Consultation on technical advice under the new Prospectus Regulation’).
5. Please do not remove tags of the type <ESMA_QUESTION_EUG_1>. Your response to each question has to be framed by the two tags corresponding to the question.
6. 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.
7. When you have drafted your response, name your response form according to the following convention: ESMA_EUG_nameofrespondent_RESPONSEFORM. For example, for a respondent named ABCD, the response form would be entitled ESMA_EUG_ABCD_RESPONSEFORM.
8. Upload the form containing your responses, in Word format, to ESMA’s website (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 confi-

dential 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 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	MEDEF
Activity	Non-financial counterparty
Are you representing an association?	<input checked="" type="checkbox"/>
Country/Region	France

Introduction

Please make your introductory comments below, if any:

<ESMA_COMMENT_ EUG_1>

The MEDEF is the leading network of entrepreneurs in France. Over 95% of the businesses belonging to the MEDEF are SMEs.

The MEDEF places job creation and sustainable growth at the heart of its action. It promotes entrepreneurship and defends free enterprise.

The MEDEF maintains a dialogue with all the actors of civil society and, with the various decision-makers, works towards achieving a better understanding of the constraints and the strengths of businesses.

Enhance entrepreneurship

In a context of far-reaching changes (economic, demographic, digital, societal), its mission is to promote free enterprise and encourage and enhance entrepreneurship.

To achieve this, it takes initiatives that enable businesses to benefit from a favourable legislative and regulatory environment in the economic, fiscal, labour, environmental, and societal fields and to deploy their activities both in France and abroad..

Medef had welcome the Commission initiative aiming at facilitating SME's access to financial markets through the revision of level 1 Prospectus regulation: the number of listed companies has fallen by 13% from 6,349 to 5,498 between 2007 and 2016 ,and in the small cap segment alone, declined by as much as 20%. There is no doubt that the regulation burden , which has a high administrative and financial cost, is widely responsible for the unattractiveness of financial markets for SME's. This represents an obstacle to their development as well as for the dynamism of EU financial markets, the two issues being linked .

We consequently welcome ESMA consultation on level 2 regulation.

From Medef point of view:

- setting up a simplified prospectus for growth market is vital but we need to remind that it is only a partial response to the problem, as it leaves the situation unchanged for access to regulated markets ;

- the present ESMA proposal certainly represents a progress but a much more radical approach would have been necessary to end up with a document user friendly, for both SME's and retail investors. While understanding that this is the purpose of the present consultation, we believe that a preparatory work, from scratch, with small and medium size companies, with specialized funds managers investing in this asset class and, with representatives of retail investors would be a way to understand the different needs at the "ground level" and to reach the objective...On the basis of a work done by Medef on guidelines for small and medium size companies wishing to finance a development project, explaining what kind of information investors were expecting and how to communicate with them, we realized that the technical language really needed to be simplified in order to be understood by those companies and to make market financing attractive to them. This needs to be done directly with them.

Beyond this general remark, our main comments concern the following issues:

- **Cover note:** Medef does not support the principal of a mandatory cover note, which would represent a new obligation which does not exist in the level 1 regulation and consequently wouldn't be coherent with a simplification approach;
- **Flexibility;** Medef does support flexibility for the order of the different sections and for the different items within each section;
- **Risk factors:** reducing the number of risks factors to be presented does not make sense: risks differences between large corporates and SME's is not a question of numbers.
- **Summary:** reducing the size of the summary because the prospectus is reduced is not relevant either and not important for the reader;
- **Compliance statement:** Medef is opposed to such a statement, which doesn't exist at level 1 regulation and would present a potential legal risk for the issuer, given the complexity of the different regulation.
- Pro forma financial information: Medef is opposed to the inclusion of pro forma financial information which doesn't exist at level 1 regulation

<ESMA_COMMENT_ EUG_1>

1. : **Do you consider that specific sections should be inserted or removed from the registration document and / or the securities note of the EU Growth prospectus proposed in Article A? If so, please identify them and explain your reasoning, especially in terms of the costs and benefits implied.**

<ESMA_QUESTION_EUG_1>

Level 2 legislation should not impose new obligations, not required for by the level 1. This would be the case with the obligation to produce cover a note. MEDEF is strongly opposed to this proposal. Such a cover note should remain an option for issuers;

<ESMA_QUESTION_EUG_1>

2. : **Do you agree with the proposal to allow issuers to define the order of the information items within each section? Please elaborate on your response and provide examples. Can you please provide input on the potential trade-off between benefits for issuers coming from increased flexibility as opposed to further comparability for investors coming from increased standardisation?**

<ESMA_QUESTION_EUG_2>

First of all, we see no reason why the order of the section themselves shouldn't be flexible, as far as all the sections are fulfilled and a table of contents provided for, which is done by all issuers. Furthermore, the current use of electronic format allow investors looking for specific information to find it more and more easily.

Consequently, issuers should remain free to determine the location of the different sections and of the information items within each section. Issuers are increasingly striving to present the information in a readable and understandable format and need to do so in an order coherent with their activities and business.

<ESMA_QUESTION_EUG_2>

3. : **Given the location of risk factors in Annexes IV and V of the Prospectus Regulation, do you consider that this information is appropriately placed in the EU growth prospectus? If not please explain and provide alternative suggestions.**

<ESMA_QUESTION_EUG_3>

. The main issue concerning risk factors is their integration in the document, in a specific section easily identifiable, which is currently the case. Whatever the issuer choice could be, It wouldn't be either logical or coherent for an SME's to present risk factors before general information about the issuer, the presentation of its activities, strategy and business. Putting the risk factors first could discourage readers to go forward in their reading before having gotten a chance to understand the issuer' business, strategy and project

<ESMA_QUESTION_EUG_3>

4. : **Do you agree with the proposal that the cover note to the EU Growth prospectus should be limited to 3 pages? If not, please specify which would 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_EUG_4>

As already stressed above, the cover note is not required under level 1 in the prospectus Regulation. Such a requirement introduced at level 2 would add a new obligation for issuers and would be contrary to the

objective of simplification. Furthermore, information included within this cover note is already provided in the prospectus, and so would create redundancy of information (« say it once » principle). In conclusion, MEDEF considers that this cover note should be an option for issuers and not an obligation.

<ESMA_QUESTION_EUG_4>

- 5. : Do you agree that the presentation of the disclosure items in para 81 is fit for purpose for SMEs? If not, please elaborate and provide your suggestions for alternative ways of presenting the disclosure items.**

<ESMA_QUESTION_EUG_5>
TYPE YOUR TEXT HERE
<ESMA_QUESTION_EUG_5>

- 6. : Do you agree with the proposal to introduce a single registration document that is applicable in the case of equity and non-equity issuances? If not please provide your reasoning and alternative approach.**

<ESMA_QUESTION_EUG_6>
TYPE YOUR TEXT HERE
<ESMA_QUESTION_EUG_6>

- 7. : Do you agree with the requirement to include in the EU Growth prospectus any published profit forecasts in the case of both equity and non-equity issuances without an obligation for a report by independent accountants or auditors? If not please elaborate on your reasoning. Please also provide an estimate of the additional costs involved in including a report by independent accountants or auditors.**

<ESMA_QUESTION_EUG_7>
There is a real debate on the opportunity for an issuer, even more if it's an SME, to publish forecasts, given the risk attached to this kind of information, while it is of great interest for investors, if the information is reliable. The proposal to include, in the EU Growth prospectus, any published forecasts without an obligation for an auditor's report would undoubtedly lower the cost for including published forecast into the prospectus. or the issuer and SME's could be less reluctant to do so.
Medef support the proposal, given that the condition to publish profit forecast were fulfilled by the issuer.
<ESMA_QUESTION_EUG_7>

- 8. : Do you consider that the requirement to provide information on the issuer's borrowing requirements and funding structure under disclosure item 2.1.1 of the EU Growth registration document should be provided by non-equity issuers too? If yes, please elaborate on your reasoning.**

<ESMA_QUESTION_EUG_8>
TYPE YOUR TEXT HERE
<ESMA_QUESTION_EUG_8>

9. : Do you think that the information required in relation to major shareholders is fit for purpose? In case you identify specific information items that should be included or removed please list them and provide examples,. Please also provide an estimate of elaborating on the materiality of the cost to provide such information items.

<ESMA_QUESTION_EUG_9>
TYPE YOUR TEXT HERE
<ESMA_QUESTION_EUG_9>

10. : Do you agree that issuers should be able to include in the EU Growth prospectus financial statements which are prepared under national accounting standards? If not please state your reasoning. Please also provide an estimate of the additional costs involved in preparing financial statements under IFRS.

<ESMA_QUESTION_EUG_10>
Medef strongly support ESMA proposal to allow issuers to include in the EU growth prospectus financial statements prepared under national accounting standards. The obligation to shift to IFRS includes different additional costs: very often, a change in auditors, changes in IT system, difficulties for the management to use and report on indicators which don't always make sense for it...Furthermore, most of investments in SME's equity or debts is originated by local investors.
<ESMA_QUESTION_EUG_10>

11. : Do you consider that there are other additions or deletions that would improve the utility of the EU Growth registration document? If yes, please specify.

<ESMA_QUESTION_EUG_11>
TYPE YOUR TEXT HERE
<ESMA_QUESTION_EUG_11>

12. : Do you consider that the disclosure items in the EU Growth registration document are clear enough to be understood by issuers? If not, please provide your views on whether any of the items would require additional guidance to issuers.

<ESMA_QUESTION_EUG_12>
TYPE YOUR TEXT HERE
<ESMA_QUESTION_EUG_12>

13. : Please indicate if further reduction or simplification of the disclosure requirements of the EU Growth registration document could significantly impact on the cost of drawing up a prospectus. If applicable, please include examples and an estimate of the cost alleviation to issuers.

<ESMA_QUESTION_EUG_13>
TYPE YOUR TEXT HERE
<ESMA_QUESTION_EUG_13>

- 14. : Do you think that the presentation of the disclosure items in para 97 is fit for purpose for SMEs? If not, please elaborate and provide your suggestions for alternative ways of presenting the information items.**

<ESMA_QUESTION_EUG_14>
TYPE YOUR TEXT HERE
<ESMA_QUESTION_EUG_14>

- 15. : Do you agree with the proposal to introduce a single securities note that is applicable in the case of equity and non-equity issuances? If not please provide your reasoning and alternative approach.**

<ESMA_QUESTION_EUG_15>
TYPE YOUR TEXT HERE
<ESMA_QUESTION_EUG_15>

- 16. : Do you consider that the disclosure items in the EU Growth securities note are clear enough to be understood by issuers? If not, please provide your views on whether any of the items would require additional guidance to issuers.**

<ESMA_QUESTION_EUG_16>
TYPE YOUR TEXT HERE
<ESMA_QUESTION_EUG_16>

- 17. : Do you consider that there are any other additions or deletions that would improve the utility of the EU Growth securities note? If yes, please specify and provide examples. In addition, please consider whether the categorisation of disclosure items for non-equity securities is fit for purpose. If not, please specify and provide your suggestions.**

<ESMA_QUESTION_EUG_17>
TYPE YOUR TEXT HERE
<ESMA_QUESTION_EUG_17>

- 18. : Please provide an estimate of the benefit in terms of reduced costs that the production of a single securities note implies.**

<ESMA_QUESTION_EUG_18>
TYPE YOUR TEXT HERE
<ESMA_QUESTION_EUG_18>

- 19. : Please indicate if further reduction or simplification of the disclosure requirements of the securities note of the EU Growth prospectus could significantly impact on the cost of drawing up a prospectus. If applicable, please include examples and an estimate of the cost alleviation to issuers.**

<ESMA_QUESTION_EUG_19>
TYPE YOUR TEXT HERE
<ESMA_QUESTION_EUG_19>

20. : Do you think that the presentation of the disclosure items in para 112 is fit for purpose for SMEs? If not, please elaborate and provide your suggestions for alternative ways of presenting the information items.

<ESMA_QUESTION_EUG_20>
TYPE YOUR TEXT HERE
<ESMA_QUESTION_EUG_20>

21. : Given the reduced content of the summary of the EU Growth prospectus do you agree with the proposal to limit its length to a maximum of six A4 pages? If not please specify and provide your suggestions.

<ESMA_QUESTION_EUG_21>
From Medef point of view, the size of the summary is not an issue for SME's and its mandatory reduction won't be understood. We do not support this proposal.
<ESMA_QUESTION_EUG_21>

22. : Do you agree that the number of risk factors could be reduced to ten instead of 15? Do you think that in some cases it would be beneficial to allow the disclosure of 15 risk factors? If yes, please elaborate and provide examples. Please also provide a broad estimate of any benefits (e.g. in terms of reduced compliance costs) associated with the disclosure of a lower number of risk factors.

<ESMA_QUESTION_EUG_22>
Medef is opposed to the proposal: we consider that reducing the number of risk factors for the EU growth prospectus is not the right approach. The number of risk factors doesn't depend on the size of the issuer but rather on its activities, business model, environment..
<ESMA_QUESTION_EUG_22>

23. : Do you agree that SMEs are less likely to have their securities underwritten? If not, should there be specific disclosure on underwriting in the summary as set out in Article 7(8)(c)(ii) of the Prospectus Regulation?

<ESMA_QUESTION_EUG_23>
Medef agrees on the fact that the disclosure on underwriting could be an important one for investors but it can be difficult for an issuer to give the information, for instance when the investors are not engaged on a fixed amount of underwriting.
<ESMA_QUESTION_EUG_23>

24. : Do you agree with the content of the key financial information that is set out in the summary of the EU Growth prospectus? If not, please elaborate and provide examples.

<ESMA_QUESTION_EUG_24>

Yes but we consider that financial KPIs should be presented in a separate section.

<ESMA_QUESTION_EUG_24>

- 25. : Do you think condensed pro forma financial information should be disclosed in the summary of the EU Growth prospectus? Please state your views and explain. In addition, please provide an estimate of the additional costs associated with the disclosure of pro forma financial information in the summary compared to the additional benefit for investors from such disclosure.**

<ESMA_QUESTION_EUG_25>

NO. Pro forma Financial information are not required in level 1 prospectus regulation.

<ESMA_QUESTION_EUG_25>

- 26. : Do you consider that there are any other additions or deletions that would improve the utility of the EU Growth registration document? If yes, please specify and provide examples.**

<ESMA_QUESTION_EUG_26>

TYPE YOUR TEXT HERE

<ESMA_QUESTION_EUG_26>

- 27. : Do you consider that the disclosure items in the specific summary of the EU Growth prospectus are clear enough to be understood by issuers? If not, please provide your views on whether any of the items would require additional guidance to issuers.**

<ESMA_QUESTION_EUG_27>

TYPE YOUR TEXT HERE

<ESMA_QUESTION_EUG_27>

- 28. : Please indicate if further reduction or simplification of the disclosure requirements of the summary of the EU Growth prospectus could significantly impact on the cost of drawing up a prospectus. If applicable, please include examples and an estimate of the cost alleviation to issuers.**

<ESMA_QUESTION_EUG_28>

TYPE YOUR TEXT HERE

<ESMA_QUESTION_EUG_28>