# Prospectus to be published when securities are offered to the public or admitted to trading

2015/0268(COD) - 19/07/2016 - Committee report tabled for plenary, 1st reading/single reading

The Committee on Economic and Monetary Affairs adopted the report by Petr JEŽEK (ADLE, CZ) on the proposal for a regulation of the European Parliament and of the Council on the prospectus to be published when securities are offered to the public or admitted to trading.

The committee recommended that the European Parliament's position adopted at first reading following the ordinary legislative procedure should amend the Commission proposal as follows:

**Purpose and scope**: this Regulation shall not apply to:

- offers of securities to the public addressed to **fewer than 350 natural or legal persons** per Member State and in a total of no more than **4000** natural or legal persons in the Union, other than qualified investors or other investors that fulfil the conditions set out in Regulation (EU) No 345/2013 on European venture capital funds;
- offers with a total consideration in the Union of **less than EUR 1 000 000**, which shall be calculated over a period of 12 months.

**Obligation to publish a prospectus and exemption**: securities shall be offered to the public in the Union **only after prior publication** of a prospectus in accordance with this Regulation. They shall be admitted to trading on a regulated market established in the Union only after prior publication of a prospectus.

Member States may decide to exempt offers of securities to the public from the obligation to publish a prospectus provided that the total consideration of the offer in the Union **does not exceed EUR 5 000 000** calculated over a period of 12 months.

Public offers made under the exemption shall contain a clear indication that the public offer is not of a cross-border nature.

**Drawing up of the prospectus**: the prospectus shall contain the **relevant and necessary information** which an investor would reasonably require in relation to an investment in securities in order to be able to make an informed assessment.

That information shall be **drafted and presented in an easily analysable, succinct and comprehensible form** and may vary depending on the nature of the issuer; the type of securities and the circumstances of the issuer.

Only in exceptional cases, however, the competent authority may allow the issuer to draw up a longer summary of up to a **maximum of 10 sides of A4-sized paper** (instead of 6 sides) when printed where the complexity of the issuer's activities, the nature of the issue, or the nature of the securities issued so requires.

The first section of the summary shall be an introduction containing **general and specific warnings**, including the extent to which investors could lose their investment in a worst case scenario. Furthermore, the summary shall contain, *inter alia*: (i) the name and international securities identification numbers

(ISIN) of the securities; (ii) the identity and contact details of the issuer, including its legal entity identifier (LEI); (iii) the identity and contact details of the offeror, including its LEI if the offeror has legal personality.

As regards the form and content of the prospectus, the Commission shall draw up **two sets of separate and materially different prospectus schedules** setting out the information requirements applicable to non-equity securities adapted to the different investor classes - qualified or nonqualified – to whom the offer is addressed, taking into account the different information needs of those investors.

**European Securities and Markets Authority (ESMA)**: ESMA shall develop guidelines on the assessment of the specificity and materiality of risk factors. In addition, ESMA shall develop guidelines to assist competent authorities in their review of risk factors in a manner which encourages appropriate and focused risk factor disclosure by issuers.

**EU Growth prospectus**: Members proposed that this Regulation should establish a specific proportionate EU Growth prospectus regime which is **available to SMEs**, to issuers making an offer of securities to the public that are to be admitted to trading on an SME growth market and to issuers offering securities to the public with a total consideration in the Union **not exceeding EUR 20 000 000**.

An EU Growth prospectus under the proportionate disclosure regime shall be a **standardised document**, which is easy for issuers to complete and should cover key information on the issuer, on the securities and on the offer. The Commission should take into account the need to facilitate access to capital markets for SMEs while ensuring investor confidence in investing in such companies, the need to minimise costs and burden for SMEs.

**Advertisements**: according to the amended text, the competent authority of the Member State where the advertisements are disseminated should have the power to exercise control over the compliance of advertising activity, relating to an offer to the public of securities or an admission to trading on a regulated market, with the principles referred to in this Regulation.