Increasing the attractiveness of public capital markets and facilitating access to capital for SMEs – amending certain Regulations

2022/0411(COD) - 07/12/2022 - Legislative proposal

PURPOSE: to make public capital markets in the Union more attractive for companies and to facilitate access to capital for small and medium-sized enterprises (SMEs).

PROPOSED ACT: Regulation of the European Parliament and of the Council.

ROLE OF THE EUROPEAN PARLIAMENT: the European Parliament decides in accordance with the ordinary legislative procedure and on an equal footing with the Council.

BACKGROUND: a company's decision to list is a complex one and is influenced by a multitude of factors, many of which are outside the reach of regulators and therefore cannot be addressed directly by a legislative intervention. For instance, the features of the ecosystem that determine the cost of listing services, and more broadly geopolitical instability, Brexit, Covid-19, and inflation, have all had (and will continue to have) an impact on the decision to list, on the timing of listing, and on whether to remain listed in the EU. Regulatory requirements and the associated costs and burden, however, are also an important factor in a company's decision to list and remain listed.

The Listing Act package represents a targeted set of measures aiming to reduce the regulatory burden where it is considered to be excessive and to increase the flexibility accorded under company law to a company's founder(s) or controlling shareholder(s) to choose how to distribute voting rights after the admission to trading of shares.

The regulatory framework applying to the listing process is multifaceted. Companies must comply with regulatory requirements before, during and after the initial public offering (IPO). This proposal addresses regulatory burden at the IPO stage by introducing targeted amendments to Regulation (EU) 2017/1129 of the European Parliament and of the Council (the Prospectus Regulation) and it addresses regulatory burden at the post-IPO stage by introducing targeted amendments to Regulation No 596/2014 of the European Parliament and of the Council (the Market Abuse Regulation or 'MAR'). It also contains limited technical amendments to Regulation No 600/2014 of the European Parliament and of the Council (the Markets in Financial Instruments Regulation or 'MiFIR') .

CONTENT: the overall objective of this initiative is to introduce **technical adjustments to the EU rulebook** in order to reduce regulatory and compliance costs for companies seeking to list or already listed with a view to streamlining the listing process and enhancing legal clarity, while ensuring an appropriate level of investor protection and market integrity. This, in turn, is expected to help diversify funding sources for companies in the EU and increase investments, economic growth, job creation and innovation in the EU.

The proposed measures aim to:

- reduce the regulatory burden on companies that seek a first-time listing and on companies that are already listed;

- revise the Prospectus Regulation to make it easier and cheaper for issuers to draw up a prospectus, while enabling investors to make the right investment decision by providing comprehensible, easy to analyse and concise information;

- remove the requirement to publish a supplement for updating **annual or interim financial information** incorporated by reference in a base prospectus which will be particularly useful with respect to non-equity transactions and programmes;

- introduce significant simplifications to, or even exemptions from, the prospectus requirements in cases where the issuer is already known to investors and a lot of information is already publicly available (follow-on issuances);

- aligns the level of disclosure of the standard prospectus to the level of disclosure currently required under the **EU Growth prospectus regime**, introduces a fixed order of disclosure and makes incorporation by reference a legal requirement;

- introduce the possibility for issuers to draw up the prospectus in **English** only as the language customary in the sphere of international finance and to publish it in an electronic format only;

- make it easier for SMEs to raise funds on public markets, in particular on SME growth markets, by generating further cost savings for SMEs and better tailoring disclosure to the needs of investors;

- foster cross-border offers by harmonising and increasing to **EUR 12 million** the threshold for exempting small offers of securities to the public from the obligation to publish a prospectus;

- simplify the MAR **disclosure regime** to reduce legal uncertainty on what constitutes inside information for the purpose of disclosure as well as on the timing of disclosure;

- introduce a possibility for ESMA to establish collaboration platforms, in particular for the purpose of monitoring wholesale commodity markets, to address concerns about market integrity and the good functioning of financial and, in particular, spot markets;

- make the **sanctioning** regime for MAR disclosure-related infringements more proportionate for SMEs to avoid discouraging smaller issuers from listing or remaining listed;

- build the necessary conditions for structural improvements in EU public capital markets to occur over time. A more favourable regulatory regime would encourage the development of a more favourable ecosystem, contributing in a multi-faceted manner to the CMU objective of improving access to financing by companies.