Basic information

2015/0268(COD) COD - Ordinary legislative procedure (ex-codecision procedure) Regulation	Procedure completed
Prospectus to be published when securities are offered to the public or admitted to trading Repealing Directive 2003/71/EC 2001/0117(COD) Amended by 2017/0230(COD) Amended by 2018/0165(COD) Amended by 2020/0155(COD) Amended by 2022/0411(COD) **Subject** 2.50.03 Securities and financial markets, stock exchange, CIUTS, investments 2.50.08 Financial services, financial reporting and auditing 4.60.06 Consumers' economic and legal interests	

Key players

European Parliament

Committee responsible	Rapporteur	Appointed
ECON Economic and Monetary Affairs	JEŽEK Petr (ALDE)	26/11/2015
	Shadow rapporteur VANDENKENDELAERE Tom (PPE) GILL Neena (S&D) SWINBURNE Kay (ECR) VIEGAS Miguel (GUE/NGL) URTASUN Ernest (Verts/ALE) VON STORCH Beatrix (EFDD) KAPPEL Barbara (ENF)	

Committee for opinion	Rapporteur for opinion	Appointed
IMCO Internal Market and Consumer Protection	FORD Vicky (ECR)	02/02/2016
JURI Legal Affairs	The committee decided not to give an opinion.	
LIBE Civil Liberties, Justice and Home Affairs		

		The committee decided not to give an opinion.

Council of the European Union

Council configuration	Meetings	Date
General Affairs	3536	2017-05-16
Economic and Financial Affairs ECOFIN	3475	2016-06-17

European Commission

Commission DG	Commissioner
Trade and Economic Security	MALMSTRÖM Cecilia

European Economic and Social Committee

Key events

Date	Event	Reference	Summary
30/11/2015	Legislative proposal published	COM(2015)0583	Summary
18/01/2016	Committee referral announced in Parliament, 1st reading		
17/06/2016	Debate in Council		
13/07/2016	Vote in committee, 1st reading		
13/07/2016	Rejection by committee to open interinstitutional negotiations with report adopted in committee		
19/07/2016	Committee report tabled for plenary, 1st reading	A8-0238/2016	Summary
14/09/2016	Debate in Parliament		
15/09/2016	Decision by Parliament, 1st reading	T8-0353/2016	Summary
15/09/2016	Results of vote in Parliament		
15/09/2016	Matter referred back to the committee responsible		
25/01/2017	Approval in committee of the text agreed at 1st reading interinstitutional negotiations		
04/04/2017	Debate in Parliament		
05/04/2017	Decision by Parliament, 1st reading	T8-0110/2017	Summary
05/04/2017	Results of vote in Parliament		
16/05/2017	Act adopted by Council after Parliament's 1st reading		
14/06/2017	Final act signed		
14/06/2017	End of procedure in Parliament		
30/06/2017	Final act published in Official Journal		

Technical information	
Procedure reference	2015/0268(COD)
Procedure type	COD - Ordinary legislative procedure (ex-codecision procedure)
Procedure subtype	Legislation
Legislative instrument	Regulation
Amendments and repeals	Repealing Directive 2003/71/EC 2001/0117(COD) Amended by 2017/0230(COD) Amended by 2018/0165(COD) Amended by 2020/0155(COD) Amended by 2022/0411(COD)
Legal basis	Rules of Procedure EP 61 Treaty on the Functioning of the European Union TFEU 114
Mandatory consultation of other institutions	European Economic and Social Committee
Stage reached in procedure	Procedure completed
Committee dossier	ECON/8/05218

Documentation gateway

European Parliament

Document type	Committee	Reference	Date	Summary
Committee draft report		PE578.833	16/03/2016	
Amendments tabled in committee		PE582.054	21/04/2016	
Amendments tabled in committee		PE582.055	21/04/2016	
Committee opinion	IMCO	PE578.848	29/06/2016	
Committee report tabled for plenary, 1st reading/single reading		A8-0238/2016	19/07/2016	Summary
Text adopted by Parliament, partial vote at 1st reading /single reading		T8-0353/2016	15/09/2016	Summary
Text adopted by Parliament, 1st reading/single reading		T8-0110/2017	05/04/2017	Summary

Council of the EU

Document type	Reference	Date	Summary
Draft final act	00063/2016/LEX	14/06/2017	

European Commission

Document type	Reference	Date	Summary
Legislative proposal	COM(2015)0583	30/11/2015	Summary
Document attached to the procedure	SWD(2015)0255	30/11/2015	
	SWD(2015)0256		

Document attached to the procedure		30/11/2015	
Commission response to text adopted in plenary	SP(2017)363	07/06/2017	

National parliaments

Document type	Parliament /Chamber	Reference	Date	Summary
Contribution	PT_PARLIAMENT	COM(2015)0583	29/03/2016	
Contribution	IT_SENATE	COM(2015)0583	25/07/2016	

Other institutions and bodies

Institution/body	Document type	Reference	Date	Summary
EESC	Economic and Social Committee: opinion, report	CES5834/2015	16/03/2016	
ECB	European Central Bank: opinion, guideline, report	CON/2016/0015 OJ C 195 02.06.2016, p. 0001	17/03/2016	Summary

Additional information

Source	Document	Date
European Parliament	Briefing	
European Parliament	Briefing	31/07/2017
European Commission	EUR-Lex	

Final act

Regulation 2017/1129
OJ L 168 30.06.2017, p. 0012 Summary

Delegated acts

Reference	Subject
2019/2664(DEA)	Examen d'un acte délégué
2019/2663(DEA)	Examen d'un acte délégué
2020/2930(DEA)	Examen d'un acte délégué
2020/2675(DEA)	Examen d'un acte délégué
2020/2674(DEA)	Examen d'un acte délégué
2026/2720(DEA)	Examen d'un acte délégué
2026/2645(DEA)	Examen d'un acte délégué
2026/2629(DEA)	Examen d'un acte délégué

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

2015/0268(COD) - 30/11/2015 - Legislative proposal

PURPOSE: to reform the prospectus rules in order to enhance investor protection and market efficiency while establishing the Capital Markets Union.

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 Council.

BACKGROUND: Directive 2003/71/EC of the European Parliament and of the Council laid down harmonised principles and rules on the prospectus to be drawn up, approved and published when securities are offered to the public or admitted to trading on a regulated market.

The Directive, which was revised in 2010 (Directive 2010/73/EU), aimed to make it easier and cheaper for companies to raise capital throughout the Union.

Prospectuses are legally required documents presenting information about a company. This information aims to be the basis on which investors can decide whether to invest in a variety of securities issued by that company. **A harmonised EU prospectus is an essential tool to integrate capital markets throughout the Union.** Once the competent authority of an EEA Member State approves a prospectus, this prospectus can be used to raise capital by means of a public offer or admission to a regulated market in other Member States.

Although the prospectus regime functions well overall, the Commission's evaluation of the Directive in 2015 shows that **certain requirements of the Prospectus Directive might still be improved to alleviate administrative burden for companies** which draw up a prospectus (especially SMEs) and to make the prospectus a more valuable information tool for potential investors.

The reform of the prospectus rules was announced in the Investment Plan for Europe and is an important step to build the Capital Markets Union. It aims particularly to: (i) reduce fragmentation in financial markets; (ii) increase investor protection in capital markets.

The purpose of the revision of the Prospectus Directive is to provide all types of issuers with disclosure rules, which are tailored to their specific needs while making the prospectus a more relevant tool of informing potential investors. The proposed measures aim to:

- **reduce the administrative burden** of drawing up of prospectus for all issuers, in particular for SMEs, frequent issuers of securities and secondary issuances;
- make the prospectus **a more relevant disclosure tool for potential investors,** especially in SMEs; and
- achieve **more convergence** between the EU prospectus and other EU disclosure rules.

In order to do this, the Commission proposes to **transform the Directive into a Regulation** in order to enhance coherence and integration throughout the internal market, while reducing divergent and fragmented rules across the Union, in coherence with the goals of the Capital Markets Union.

IMPACT ASSESSMENT: the impact assessment provides a summary of the different alleviations and investor protection measures chosen as well as their impact on relevant stakeholders and the overall market in which these stakeholders operate. It concludes that the proposed "package" will **result in a reduction in the administrative burden for issuers, will make access to capital markets for SMEs easier and cheaper and improve investor protection** by improving the appropriateness of the disclosure documents and ultimately enlarging choice of prospectus-based securities. This should then translate into further integration of capital markets in the Union in the form of more prospectus-based securities being offered across borders and greater transparency and comparability.

CONTENT: the new proposal for a regulation aims to **modernise the prospectus rules** to facilitate raising money and simplify information for investors. It introduces the following main changes with regard to the current Directive:

Scope of the prospectus obligation (new thresholds): the proposal provides that no prospectus is required under this Regulation for offers of securities with a consideration **below EUR 500 000.** Furthermore, Member States will also be able to set higher thresholds for their domestic markets, and the proposal doubles this threshold from EUR 5 million **to EUR 10 million.**

Definitions: the main change concerns the definition of SME, thereby raising to **EUR 200 million** the EUR 100 million threshold that previously defined "companies with reduced market capitalisation".

Prospectus summary: this should be modelled as much as possible after **the key information document** required under Regulation (EU) No 1286/2014 and is subject to a maximum length of 6 sides of A4- sized paper when printed (characters of readable size must be used). **Liability** attaches to the summary only if it is misleading, inaccurate or inconsistent when read together with the other parts of the prospectus.

The base prospectus: a base prospectus may now be drawn up for **any kind of non-equity securities**, not only for those issued under an offering programme or in a continuous and repeated way by credit institutions. Base prospectuses consisting of several documents (the so-called "tripartite prospectus") are now possible, and the registration document of a base prospectus may take the form of a universal registration document.

The universal registration document: the proposal contains detailed rules on the new "universal registration document", an **optional shelf registration mechanism for "frequent issuers"** admitted to trading on regulated markets or multilateral trading facilities. The competent authority should be able to scrutinise the remaining documents (securities note and summary) within 5 working days, instead of the current 10.

Simplifying secondary issuance for listed firms: issuers whose securities are already listed on a regulated market (this category accounts for around 70% of all prospectuses approved in a given year), or the future SME growth market, should enjoy the benefit of an **alleviated prospectus for their secondary issuances.** The alleviated regime for secondary issuances will apply to offers or admissions concerning securities issued by companies already admitted to trading on a regulated market or an SME growth market for at least 18 months.

Specific disclosure regime for SMEs: the specific regime for SMEs will allow these companies to draw up a distinct prospectus in case of an offer of securities to the public. This kind of prospectus should however not be available to SMEs admitted to trading on regulated markets to avoid creating a two-tier disclosure standard on regulated markets which might undermine investor confidence. In addition, a **new optional "question and answer" format** is expected to help SMEs in drawing up their own prospectus, thus saving considerable legal fees.

Treatment of non-equity securities with a high denomination per unit: the favourable treatment granted by the Prospectus Directive to non-equity securities with a **denomination per unit of EUR 100 000 or above** have led to unintended consequences, creating distortions in the European bond markets and making a significant share of bonds issued by investment-grade companies inaccessible to a wider number of investors. The proposal therefore **removes the incentives to issue debt securities in large denominations** with a view to removing one of the barriers to secondary liquidity on European bond markets. For non-equity securities admitted to trading on a regulated market, the **dual standard of disclosure** (retail / wholesale) is removed. Furthermore, the prospectus exemption for offers of securities with a denomination above EUR 100 000 is removed.

Publication of the prospectus: the prospectus shall be deemed available to the public when **published in electronic form** either on the website of the issuer, the offeror or the person asking for admission (or, if applicable, of the financial intermediaries placing or selling the securities) or on the website of the regulated market where the admission to trading is sought, or of the operator of the multilateral trading facility. The **European Securities and Markets Authority** (ESMA) will develop an online storage mechanism with a search tool that EU investors may use for free.

BUDGETARY IMPLICATIONS: the proposal will have budgetary implications for ESMA **(EUR 3.884 million for the period 2016-2019)** in two respects: (i) ESMA will have to prepare regulatory and implementing technical standards and (ii) it will have to upgrade its existing prospectus register and to transform it into an online storage mechanism with a search tool that the public can use for free to access and compare EU prospectuses from a single location.

DELEGATED ACTS: the proposal contains provisions empowering the Commission to adopt delegated acts in accordance with Article 290 of the Treaty on the Functioning of the European Union.

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

2015/0268(COD) - 17/03/2016 - European Central Bank: opinion, guideline, report

Opinion of the European Central Bank (ECB) on a 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.

On 8 March 2016, the European Central Bank received a request from the Council for an opinion on the proposal for a regulation.

Overall, the ECB **welcomed and supported the objectives of the proposed regulation** which aim to simplify the existing rules for the drawing up, approval and distribution of prospectuses and thus reduce the costs and burdens associated with their production.

The ECB made specific observations on the following points:

Exemptions for offers of non-equity securities issued by the ECB and the European System of Central Bank (ESCB) national central banks (NCBs) and for shares in the capital of ESCB NCBs: the ECB welcomed the fact that non-equity securities issued by the ECB and ESCB NCBs are excluded from the scope of the proposed regulation. It also welcomed the exemption for the shares in the capital of the ESCB NCBs.

Mandatory requirements regarding the use of the International Securities Identification Number (ISIN) and the global legal entity identifier (LEI): in order to guarantee investor protection and market efficiency, the proposed Regulation states that the information made available to investors should be ‘sufficient and objective’ and presented in ‘an easily analysable, succinct and comprehensible form’. This information should include unique identifiers for both the security and the issuer. In this regard, the ECB strongly supported the use of internationally agreed standards, such as the ISIN and the global LEI.

For these reasons, the ECB recommended that any **information gaps that exist should be eliminated** to ensure a level playing field across markets and jurisdictions by making it mandatory to include the ISIN in prospectuses for securities that are subject to the proposed regulation.

In addition, given that the use of the global LEI is growing rapidly with regard to the identification of legal persons and structures, the ECB stated that it sees merit in expanding its use by making it compulsory to include the global LEI in prospectuses or registration documents for securities covered by the proposed regulation. It suggested therefore establishing the **obligation to report the ISIN and LEI** both in the proposed regulation and in any related Commission delegated acts implementing the proposed regulation.

Publication of prospectuses in an online storage mechanism: the ECB considered that the storage mechanism should also present the information contained in the prospectuses in a **machine-readable manner**, using metadata, at least for certain key attributes, such as the identification of the

securities, issuers, offerors and guarantors, as this information is vital in ensuring that (institutional) investors have access to reliable data that can be used and analysed in a timely and efficient manner.

Removal of incentives for issuing debt securities in large denominations: the ECB recalled that in order to receive favourable treatment under Directive 2003/71/EC on the prospectus to be published when securities are offered to the public or admitted to trading, some issuers currently impose minimum and/or multiple amount settlement rules for certain securities they issue at the central securities depository (CSD) level. However, settlements that are not compliant with these rules may still take place at the CSD level, e.g. central counterparty (CCP) netting of trading activities in standard amounts or other non-trading related activities, such as the processing of corporate actions. As a consequence, instructions for such settlements, even if they do not contradict the requirements of Directive 2003/71/EC, cannot be carried out through the standard processing provided by the technical platforms of national financial market infrastructures. This is normally mitigated by the usage of inefficient and risky manual workaround solutions (non-straight-through processing (non-STP) technical procedures) or more complex technical functionalities.

In light of the above, the ECB welcomed the removal of the incentives to issue debt securities in large denominations, i.e. above EUR 100 000. Furthermore, the ECB stated that imposing minimum denominations and minimum amounts at the settlement level runs counter to the spirit of Directive 2003/71/EC.

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

2015/0268(COD) - 14/06/2017 - Final act

PURPOSE: to enhance investor protection and improve market efficiency by simplifying the administrative burdens relating to the publication of a prospectus for the issuing and offering of securities.

LEGISLATIVE ACT: Regulation (EU) 2017/1129 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 on a regulated market, and repealing Directive 2003/71/EC.

CONTENT: the Regulation lays down requirements for the **drawing up, approval and distribution of the prospectus to be published when securities are offered to the public** or admitted to trading on a regulated market situated or operating within a Member State.

Prospectuses present information about a company that enables investors to decide whether to purchase securities issued or offered by that company. Divergent approaches would result in fragmentation of the internal market.

The new rules replace Directive 2003/71/EC, and aim to **ensure the protection of investors and market efficiency**, whilst strengthening the internal market for capital.

Purpose, scope and exemptions: the Regulation states that no prospectus will be required for capital raisings and crowd funding projects **up to EUR 1 million**, expressed as the total consideration of the offer in the Union over a period of 12 months.

Furthermore, the obligation to publish a prospectus shall not apply to an offer of securities addressed solely to qualified investors or an offer of securities whose denomination per unit amounts to at least EUR 100 000.

The threshold beyond which a prospectus is mandatory is increased to **EUR 8 million** in capital raised, calculated over a period of 12 months.

Drawing up of the prospectus: a prospectus shall contain the necessary information which is **material to an investor for making an informed assessment** of: (i) the assets and liabilities, profits and losses, financial position, and prospects of the issuer and of any guarantor; (ii) the rights attaching to the securities; and (iii) the reasons for the issuance and its impact on the issuer.

The prospectus should include a **clear and accurate summary** (7 pages) providing, apart from information about issuer:

- a **warning** that the investor could lose all or part of the invested capital and, where the investor's liability is not limited to the amount of the investment, and the extent of such potential loss;
- where applicable, a **comprehension alert** as defined in the text;
- a brief description of the nature and scope of the guarantee, the most **material risk factors** specific to the issuer contained in the prospectus, and the reasons for the offer.

Frequent issuers may draw up a **simplified prospectus** under the simplified disclosure regime for **secondary issuances**. The time limit for approval in such cases is reduced to five working days.

Paper prospectuses will no longer be required, unless a potential investor requests one.

Once approved, the prospectus shall be **made available to the public** by the issuer, the offeror or the person asking for admission to trading on a regulated market.

A European online prospectus database will be operated free of charge by the European Securities and Markets Authority.

The EU growth prospectus: in order to encourage the use of capital market financing by SMEs, the Regulation establishes a specific proportionate EU Growth prospectus regime which is standardized and simplified for:

- SMEs;
- issuers whose securities are traded on an SME growth market, provided that those issuers had an average market capitalisation of **less than EUR 500 million** on the basis of end-year quotes for the previous three calendar years; and
- issuers where the offer of securities to the public is of a total consideration in the Union that does **not exceed EUR 20 million** calculated over a period of 12 months.

Once approved, an EU Growth prospectus will benefit from the **passporting regime** under the Regulation and therefore be valid for any offer of securities to the public across the Union.

Issuers established in third countries: the competent authority of the home Member State of a third country issuer may approve a prospectus drawn up in accordance with the national laws of the third country issuer, provided that:

- the **information requirements** imposed by those third country laws are equivalent to the requirements under this Regulation; and
- the competent authority of the home Member State has concluded **cooperation arrangements** with the relevant supervisory authorities of the third country issuer.

Review: before 21 July 2022 the Commission shall present a report on the application of the Regulation, accompanied where appropriate by a legislative proposal.

ENTRY INTO FORCE: 20.7.2017.

APPLICATION: from 21.7.2019 (with the exception of certain provisions that apply from 20.7.2017 and from 21.7.2018).

DELEGATED ACTS: the Commission may adopt delegated acts in order to supplement non-essential elements of the Directive. The power to adopt such acts is conferred on the Commission for **an indeterminate period from 20 July 2017**. The European Parliament or the Council have the right to object to a delegated act within three months (which may be extended by three months) from the date of notification of the act.

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

2015/0268(COD) - 05/04/2017 - Text adopted by Parliament, 1st reading/single reading

The European Parliament adopted by 517 votes to 109, with 71 abstentions, a legislative resolution 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.

Parliament's position adopted in first reading following the ordinary legislative procedure amended the Commission proposal as follows:

Purpose, scope and derogations: the Regulation lays down requirements for the drawing up, approval and distribution of the prospectus to be published when securities are offered to the public or admitted to trading on a regulated market situated or operating within a Member State.

Parliament noted that this Regulation shall not apply to an offer of securities to the public with a total consideration in the Union of less than **EUR 1 000 000**, which shall be calculated over a period of 12 months.

The obligation to publish a prospectus shall not apply to: (i) an offer of securities whose denomination per unit amounts to at least EUR 100 000; (ii) non-equity securities issued in a continuous or repeated manner by a credit institution, where the total aggregated consideration in the Union for the securities offered is less than **EUR 75 000 000** per credit institution calculated over a period of 12 months, under certain conditions.

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 the Regulation. 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 8 000 000** calculated over a period of 12 months.

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 of: (a) the assets and liabilities, financial position, profit and losses, and prospects of the issuer and of any guarantor; and (b) the rights attaching to such securities.

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.

The prospectus summary: the prospectus shall include a summary (written in a concise manner and of a maximum length of seven sides of A4-sized paper when printed) including the following information:

- **information** on the issuer (identity and contact details of the issuer, including its legal entity identifier (LEI), key information on the offer of securities to the public and/or the admission to trading on a regulated market;
- a **warning** that the investor could lose more than the invested capital and the extent of such potential loss;
- where applicable, the comprehension alert if the document is difficult to understand;
- a brief description of the nature and scope of the **guarantee**;

- a brief description of the most material risk factors specific to the securities contained in the prospectus;
- a brief description of the reasons for the offer or for the admission to trading on a regulated market.

Frequent issuers may choose to draw up a **simplified prospectus** under the simplified disclosure regime for secondary issuances.

EU Growth prospectus: in order to facilitate access to financing on capital markets for SMEs in the Union, Parliament proposed an **EU Growth prospectus** which is a simplified prospectus under the proportionate disclosure regime set out in this Article in the case of an offer of securities to the public provided that they have no securities admitted to trading on a regulated market: (i) SMEs; (ii) issuers, other than SMEs, whose securities are traded or are to be traded on an SME growth market, provided that those issuers had an average market capitalisation of less than **EUR 500 000 000** on the basis of end-year quotes for the previous three calendar years; (iii) issuers, where the offer of securities to the public is of a total consideration in the Union that does not exceed **EUR 20 000 000** calculated over a period of 12 months.

Once approved, an EU Growth prospectus should benefit from the **passporting regime** under this Regulation and should therefore be valid for any offer of securities to the public across the Union.

Risk factors: Parliament stated that the presentation of risk factors in the summary should consist of a limited selection of specific risks which the issuer considers to be of most relevance to the investor when the investor is making an investment decision. The description of the risk factors in the summary should be of relevance to the specific offer and should be prepared solely for the benefit of investors and not give general statements on investment risk, or limit the liability of the issuer, offeror or any persons acting on their behalf.

Those risk factors shall also include the risks resulting from the level of subordination of a security and the impact on the expected size or timing of payments to holders of the securities under bankruptcy, or any other similar procedure, including, where relevant, the insolvency of a credit institution or its resolution or restructuring.

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 that encourages appropriate and focused risk factor disclosure by issuers.

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

2015/0268(COD) - 15/09/2016 - Text adopted by Parliament, partial vote at 1st reading/single reading

The European Parliament adopted amendments to 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 matter was referred back to the competent committee for reconsideration. The vote on the legislative resolution was set back to a later sitting.

The main amendments adopted in plenary were as follows:

Purpose and scope: the 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.

With regard to offers of securities, Member States should refrain from imposing at national level other disclosure requirements that could constitute **a disproportionate or unnecessary burden.** Where Member States impose such national disclosure requirements, they should notify the Commission and ESMA of the applicable rules.

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 the 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 of: (a) the assets and liabilities, financial position, profit and losses, and prospects of the issuer and of any guarantor; and (b) the rights attaching to such securities.

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.

The prospectus summary: Members recommended that no summary should be required where the prospectus relates to the admission to trading on a regulated market of non-equity securities offered solely to qualified investors.

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:

- the name and international securities identification numbers (ISIN) of the securities;
- the identity and contact details of the issuer, including its legal entity identifier (LEI);
- 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.

The simplified disclosure regime should also be applicable to **multilateral trading facilities** (MTFs), other than an SME growth market, where those MTFs have disclosure requirements equivalent to the ones required for SME growth markets under Directive 2014/65/EU.

EU Growth prospectus: Parliament proposed that the 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**.

Once approved, EU Growth prospectuses should benefit from the **passporting regime** under the Regulation and should therefore be valid for any offer of securities to the public across the Union.

An EU Growth prospectus 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.

Risk factors: these shall also include the risks resulting from the level of subordination of a security and the impact on the expected size or timing of payments to holders of the securities under bankruptcy, or any other similar procedure, including, where relevant, the insolvency of a credit institution or its resolution or restructuring.

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 that encourages appropriate and focused risk factor disclosure by issuers.

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 the Regulation.

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.