

Mr Steven Maijoor  
European Securities and Markets  
Authority (ESMA)  
103 Rue de Grenelle  
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Brussels, 28 September 2017

**Subject: Draft technical advice on content and format of the EU Growth prospectus**

Dear Mr. Maijoor,

We are pleased to provide you below the summarised joint position of Accountancy Europe, European Contact Group (ECG) and the European Group of International Accounting Networks and Associations (EGIAN) on ESMA's consultation on the content and format of the EU Growth prospectus (EUGP). We elaborate further on the points below in our consultation response.

We are basing our comments on the work that we conducted together on a simplified SME prospectus. This work consists of a paper establishing the principles of a prospective SME prospectus regime<sup>1</sup>, and a model prospectus prepared on the basis of the paper's guidelines and principles<sup>2</sup>.

We are of the view that ESMA has not fulfilled the objectives of its Level 1 mandate – as elaborated below and in our consultation response. The mandate expressed clear political preference for a significantly alleviated EUGP regime, and we feel that ESMA could have gone much further in alleviating the disclosures.

**ESMA'S MANDATE**

The political consensus on the Prospectus Regulation Level I – reached in December 2016 – established the boundaries within which ESMA can propose the disclosure and format requirements of the EUGP. The Commission's mandate to ESMA<sup>3</sup> states, for example, that:

*“ESMA should adopt a ‘bottom-up approach’(...). This means that the exercise should not consist in identifying information which could be omitted from a full prospectus. Instead, ESMA should devise a new, substantially alleviated standard of disclosure from scratch without being guided by the content and format of the prospectus which applies to issuers on regulated markets.”*

Furthermore:

*“There should be a tangible difference between the reduced content of the EU growth prospectus and the content of the prospectus which applies to issuers on regulated markets.”*

Annexes I, II and III of the Level I Prospectus Regulation elaborate in greater detail the required disclosures for the non-EUGP prospectuses. By contrast, Annexes IV and V covering the EUGP specifically are more generic in approach and wording, and allow for greater flexibility in the disclosures. We see this as a clear mandate for ESMA to put forward ambitious proposals to develop a balanced, business-driven, proportionate and investor-friendly EUGP regime.

ESMA is not, however, fully aligned with this mandate's objectives. ESMA has significantly more leeway for proposing a more alleviated disclosure regime for the EUGP within the remit of its Level 1 mandate.

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<sup>1</sup> May 2016: [https://www.accountancyeurope.eu/wp-content/uploads/Prospectus\\_paper.pdf](https://www.accountancyeurope.eu/wp-content/uploads/Prospectus_paper.pdf)

<sup>2</sup> June 2017: <https://www.accountancyeurope.eu/wp-content/uploads/170609-Model-Simplified-SME-Prospectus.pdf>

<sup>3</sup> [https://ec.europa.eu/info/sites/info/files/prospectus-directive-esma-mandate\\_en.pdf](https://ec.europa.eu/info/sites/info/files/prospectus-directive-esma-mandate_en.pdf)

## **AREAS FOR IMPROVEMENT**

In the following three areas, in particular, we see room for further changes in ESMA's technical advice:

- given the rapid development of technology, we encourage ESMA to enable greater flexibility for alternative means of disclosing and presenting information
- some of ESMA's proposed disclosures are not explicitly required at Level I. Much of this information could either be omitted or reside on the issuer's website or a third-party website
- incorporation by reference could be more strongly and explicitly encouraged. For example, we encourage ESMA to explicitly state in its technical advice which disclosures could be incorporated by reference

Annex II of the Prospectus Regulation sets out guidance for the registration document of the full prospectus. This extends to over one and a half pages in the Regulation. In its technical advice, ESMA has translated this into 18 pages of disclosures in the case of shares. In comparison, Level I Annex IV provides high-level guidance on half a page for the EUGP registration document. In ESMA's proposal for technical advice, the disclosures still extend over 15 pages.

The number of pages is not an objective or even necessarily a fair representation of actual disclosure burdens. However, it is broadly indicative. There is also a concrete risk that ESMA's 15 pages of disclosure items will be used by regulators and advisors alike as an exhaustive minimum check-list. This is concerning, given that the Level I mandate clearly provides greater leeway for an ambitiously alleviated EUGP proposal. Especially when compared to the stricter and more elaborated requirements for the full prospectus in Annexes I, II and III.

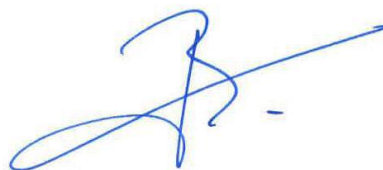
Therefore, we believe that the proposals set out in our papers of May 2016 and June 2017 remain in large parts relevant for Level II as well, despite certain inevitable divergences between the Level I compromise and our recommendations. We further clarify on this in our detailed response to ESMA's consultation on the EUGP.

We hope that you will find the comments above and our consultation response useful. For additional information on this letter, please contact us at +32 2 893 33 60 or [info@accountancyeurope.eu](mailto:info@accountancyeurope.eu).

Sincerely,



Edelfried Schneider  
President



Olivier Boutellis-Taft  
Chief Executive