



22.3.2016

## **DRAFT OPINION**

of the Committee on the Internal Market and Consumer Protection

for the Committee on Economic and Monetary Affairs

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  
(COM(2015)0583 – C8-0375/2015 – 2015/0268(COD))

Rapporteur: Vicky Ford



## SHORT JUSTIFICATION

### Background

The current Prospectus Directive 2003/71/EC harmonises rules for publishing prospectuses when companies want to raise capital either by listing shares or by offering investment opportunities to the general public. The prospectus must contain the necessary information for investors to make an informed investment decision.

As part of the Capital Markets Union, the Commission has proposed an overhaul of the Prospectus Directive with a view to making it easier and less expensive for companies, particularly SMEs to raise capital and to provide clear information for potential investors, including retail investors.

The IMCO Committee is responsible for the legislative oversight of consumer interests in a wide range of sectors, including financial services as well as enhancing competitiveness across the Single Market. It is important that retail investors have access to appropriate information so that they can make an informed decision.

### Summary

The Rapporteur recommends renaming the “summary” to “introductory summary” to more accurately reflect its purpose. The Rapporteur suggests that the provision of a summary should be mandatory only when securities are being offered to retail investors. It should be a short document written in a concise manner and easily comparable.

However she believes that the summary regime proposed by the Commission is too prescriptive in certain instances, such as setting the maximum length to six pages and the risk factors to five. She would welcome comments on this.

### Language

The Rapporteur supports the idea that an investor should be able to read the summary of the prospectus in one of the official languages of their home Member State and suggests that the prospectus summary should be translated where necessary, using the same language regime as agreed in the PRIIPs regulation.

### Non-equity

The Rapporteur supports opening up the non-equity market to retail investors and the removal of the exemption for bonds above a denomination of €100,000, but sees a need to keep a differentiation between qualified and non-qualified investor in terms of disclosure.

### Thresholds

The ECON Rapporteur has suggested raising and lowering certain thresholds in order to facilitate SMEs that wish to access capital markets. The IMCO Rapporteur believes that enabling increased access to finance for SMEs is beneficial, and that consumers could also benefit from increased investment choices. Given the type of consumer likely to invest in these offers, the IMCO Rapporteur believes that the changes in thresholds are unlikely to materially impact on consumer protection. However, she suggests that the IMCO Committee should review these and hence has re-tabled these amendments for a vote in IMCO.

### **Secondary Issuance**

The Commission proposal suggests a minimum disclosure regime for secondary issuances. This will significantly reduce the administrative cost for approximately 70% of issuances. The IMCO Rapporteur supports this provided that there has been no material change and has tabled an amendment in this regard.

### **Crowdfunding**

The Rapporteur is aware that the Commission is reflecting on crowdfunding, and believes that retail investors have clearly embraced the opportunities crowdfunding brings. She believes that an appropriate level of consumer protection should be offered by platforms and has tabled an amendment in this regard.

## **AMENDMENTS**

The Committee on the Internal Market and Consumer Protection calls on the Committee on Economic and Monetary Affairs, as the committee responsible, to take into account the following amendments:

### **Amendment 1**

#### **Proposal for a regulation Recital 12 a (new)**

*Text proposed by the Commission*

*Amendment*

*(12a) While it might be proportionate to exclude from this Regulation offers of securities to the public with a total consideration of less than EUR 1 million, minimum consumer protection should still be observed, for instance in areas such as crowdfunding. Such protection could consist of, inter alia, clearly visible risk warnings, basic disclosure and organisational requirements, a right of cancellation and investment amount caps.*

Or. en

### **Amendment 2**

#### **Proposal for a regulation Recital 47**

*Text proposed by the Commission*

*Amendment*

***(47) Favourable treatments granted to issuances of non-equity securities in excess of EUR 100 000 may distort the structure of debt markets, create impediments to proper diversification of portfolios and to the development of electronic trading platforms, thus undermining liquidity on the secondary market, and may reduce investment choice for retail investors by depriving them of the opportunity to acquire investment-grade corporate bonds. It is therefore appropriate to remove the prospectus exemption for offers of non-equity securities whose denomination per unit amounts to at least EUR 100 000 and the lower standard of disclosure granted to prospectuses concerning such non-equity securities, featured originally in Directive 2003/71/EC. In particular, it is appropriate to unify the minimum information requirements for non-equity prospectuses, thereby replacing the dual standard of disclosure between issuances targeting qualified investors only and issuances targeting non-qualified investors.***

***deleted***

Or. en

*Justification*

*This amendment reiterates amendment 17 of Mr De Backer's draft report in ECON.*

### **Amendment 3**

#### **Proposal for a regulation**

#### **Article 1 - paragraph 3 - point b**

*Text proposed by the Commission*

*Amendment*

***(b) an offer of securities*** addressed to fewer than ***150*** natural or legal persons per Member State, other than qualified

(b) addressed to fewer than ***500*** natural or legal persons per Member State, other than qualified investors; ***existing shareholders***

investors;

***and employees shall not be included when calculating the number of persons to whom the offer is addressed;***

Or. en

*Justification*

*This amendment reiterates amendment 32 of Mr De Backer's draft report in ECON.*

**Amendment 4**

**Proposal for a regulation**

**Article 1 - paragraph 3 – point d**

*Text proposed by the Commission*

(d) an offer of securities with a total consideration in the Union of less than **EUR 500 000**, which shall be calculated over a period of 12 months;

*Amendment*

(d) an offer of securities with a total consideration in the Union of less than **EUR 1 000 000**, which shall be calculated over a period of 12 months;

Or. en

*Justification*

*This amendment reiterates amendment 34 of Mr De Backer's draft report in ECON.*

**Amendment 5**

**Proposal for a regulation**

**Article 1 - paragraph 3 – point d**

*Text proposed by the Commission*

(d) an offer of securities with a total consideration in the Union of less than **EUR 500 000**, which shall be calculated over a period of 12 months;

*Amendment*

(d) ***provided there is a minimum consumer protection standard in place***, an offer of securities with a total consideration in the Union of less than **EUR 1 000 000**, which shall be calculated over a period of 12 months;

Or. en

*Justification*

*This amendment is tabled as an alternative to amendment 4.*

## Amendment 6

### Proposal for a regulation

#### Article 2 - paragraph 1 - point v a (new)

*Text proposed by the Commission*

*Amendment*

***(va) 'retail investor' means a retail investor as defined in point 6 of Article 4 of Regulation (EU) No 1286/2014.***

Or. en

*Justification*

*This introduces the definition of "retail investor" contained in the PRIIPs Regulation.*

## Amendment 7

### Proposal for a regulation

#### Article 3 - paragraph 2 - subparagraph 1- point b

*Text proposed by the Commission*

*Amendment*

(b) the total consideration of the offer is less than a monetary amount calculated over a period of 12 months, which shall not exceed **EUR 10 000 000**.

(b) the total consideration of the offer is less than a monetary amount calculated over a period of 12 months, which shall not exceed **EUR 20 000 000 in the Union**.

Or. en

*Justification*

*This amendment reiterates amendment 54 of Mr De Backer's draft report in ECON.*

## Amendment 8

### Proposal for a regulation

#### Article 5 - paragraph 2 a (new)

*Text proposed by the Commission*

*Amendment*

***By way of derogation from the second paragraph of this Article, when any resale of securities is made to a retail investor, such resale shall be subject to the publication of an introductory summary in accordance with Article 7.***

Or. en

*Justification*

## **Amendment 9**

**Proposal for a regulation  
Article 7 – title**

*Text proposed by the Commission*

*Amendment*

***The prospectus*** summary

***Introductory*** summary

Or. en

*Justification*

*(Adopting this amendment will necessitate making the corresponding changes throughout.)*

## **Amendment 10**

**Proposal for a regulation  
Article 7 - paragraph 1 - subparagraph 1 a (new)**

*Text proposed by the Commission*

*Amendment*

***By way of derogation from the first subparagraph, where the prospectus relates to the admission to trading on a regulated market of non-equity securities offered solely to qualified investors, no introductory summary shall be required.***

Or. en

*Justification*

*This amendment reiterates amendment 65 of Mr De Backer's draft report in ECON.*

*There is no obligation to publish an introductory summary in the circumstances described. It is at the option of the issuer to do so.*

**Amendment 11**

**Proposal for a regulation**

**Article 7 - paragraph 1 - subparagraph 1 a (new)**

*Text proposed by the Commission*

*Amendment*

***By way of derogation from the first subparagraph, where the prospectus relates to the admission to trading on a regulated market of securities offered solely to qualified investors, no introductory summary shall be required.***

Or. en

*Justification*

*There is no obligation to publish an introductory summary in the circumstances described. It is at the option of the issuer to do so.*

*This amendment is tabled as an alternative to amendment 10.*

**Amendment 12**

**Proposal for a regulation**

**Article 7 - paragraph 3 – introductory wording**

*Text proposed by the Commission*

*Amendment*

The summary shall be drawn up as a short document written in a concise manner ***and of a maximum of six sides of A4-sized paper when printed.*** It shall:

The ***introductory*** summary shall be drawn up as a short document written in a concise manner. It shall:

Or. en

*Justification*

**Amendment 13**

**Proposal for a regulation**

**Article 7 - paragraph 3 – introductory wording**

*Text proposed by the Commission*

The summary shall be drawn up as a short document written in a concise manner and of a maximum of six sides of A4-sized paper when printed. It shall:

*Amendment*

The **introductory** summary shall be drawn up as a short document written in a concise manner and of a maximum of six sides of A4-sized paper when printed, **to be increased where necessary**. It shall:

Or. en

*Justification*

*This amendment is tabled as an alternative to amendment 12.*

**Amendment 14**

**Proposal for a regulation**

**Article 7 - paragraph 3 - point b**

*Text proposed by the Commission*

(b) be written in a language and a style that facilitate the understanding of the information, in particular, in language that is clear, non-technical, succinct and comprehensible.

*Amendment*

(b) be written in a language and a style that facilitate the understanding of the information, in particular, in language that is clear, non-technical, succinct and comprehensible **for the type of investor concerned**.

Or. en

*Justification*

*This amendment reiterates amendment 66 of Mr De Backer's draft report in ECON.*

## Amendment 15

### Proposal for a regulation Article 7 - paragraph 4 - point a

*Text proposed by the Commission*

(a) an introduction containing warnings;

*Amendment*

(a) an introduction containing warnings,  
***including the extent to which investors  
can lose their investment in a worst-case  
scenario;***

Or. en

*Justification*

*This amendment reiterates amendment 67 of Mr De Backer's draft report in ECON.*

## Amendment 16

### Proposal for a regulation Article 7 - paragraph 6 - point c

*Text proposed by the Commission*

(c) under a sub-section titled 'What are the key risks that are specific to the issuer?' a brief description of no more than five of the most material risk factors specific to the issuer contained in the category of highest materiality according to Article 16.

*Amendment*

(c) under a sub-section titled 'What are the key risks that are specific to the issuer?' a brief description of no more than five of the most material risk factors specific to the issuer contained in the category of highest materiality according to Article 16;  
***the number of risk factors may be  
increased where necessary.***

Or. en

*Justification*

## Amendment 17

### Proposal for a regulation Article 7 - paragraph 7 - point d

*Text proposed by the Commission*

(d) under a sub-section titled 'What are the key risks that are specific to the securities?' a brief description of no more than five of the most material risk factors specific to the securities, contained in the category of highest materiality according to Article 16.

*Amendment*

(d) under a sub-section titled 'What are the key risks that are specific to the securities?' a brief description of no more than five of the most material risk factors specific to the securities, contained in the category of highest materiality according to Article 16; ***the number of risk factors may be increased where necessary.***

Or. en

*Justification*

*This amendment is consequent on the previous amendment.*

**Amendment 18**

**Proposal for a regulation**

**Article 13 - paragraph 1 - subparagraph 2 a (new)**

*Text proposed by the Commission*

*Amendment*

***In particular, the Commission shall establish 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 non-qualified - to whom the offer is addressed, taking into account the different information needs of those investors.***

Or. en

*Justification*

*This amendment reiterates amendment 77 of Mr De Backer's draft report in ECON.*

**Amendment 19**

**Proposal for a regulation**

**Article 14 - paragraph 1 - subparagraph 2 a (new)**

*Text proposed by the Commission*

*Amendment*

***In cases where there has been no material change to the information contained in the registration document submitted as part of the initial prospectus, the specific registration document for the purposes of the secondary issuance shall not require approval by the competent authority prior to its publication.***

Or. en

*Justification*

*This amendment reiterates amendment 85 of Mr De Backer's draft report in ECON.*

## **Amendment 20**

### **Proposal for a regulation**

#### **Article 25 - paragraph 2 - subparagraph 2**

*Text proposed by the Commission*

The competent authority of each host Member State *may* require that the summary referred to in Article 7 be ***translated into its official language or languages, but it*** shall not require the translation of any other part of the prospectus.

*Amendment*

The competent authority of each host Member State ***shall*** require that the ***introductory*** summary referred to in Article 7 be ***written in the official languages, or in one of the official languages, used in the part of the Member State where the security is offered, or in another language accepted by the competent authorities of that Member State, or, where it has been written in a different language, it shall be translated into one of those languages.***

***The translation shall faithfully and accurately reflect the content of the original introductory summary.***

***The competent authority of each host Member State shall not require the translation of any other part of the prospectus.***

***If a security is offered in a Member State through marketing documents written in***

*one or more official languages of that Member State, the introductory summary shall be written in at least the corresponding official languages.*

Or. en

*Justification*

*This amendment is based on Article 7 of the PRIIPs Regulation.*

**Amendment 21**

**Proposal for a regulation  
Article 25 - paragraph 3 - subparagraph 2**

*Text proposed by the Commission*

The competent authority of each host Member State *may* require that the summary referred to in Article 7 be *translated into its official language or languages but it* shall not require the translation of any other part of the prospectus.

*Amendment*

The competent authority of each host Member State *shall* require that the *introductory* summary referred to in Article 7 be *written in the official languages, or in one of the official languages, used in the part of the Member State where the security is offered, or in another language accepted by the competent authorities of that Member State, or, where it has been written in a different language, it shall be translated into one of those languages.*

*The translation shall faithfully and accurately reflect the content of the original introductory summary.*

*The competent authority of each host Member State shall not require the translation of any other part of the prospectus.*

*If a security is offered in a Member State through marketing documents written in one or more official languages of that Member State, the introductory summary shall be written in at least the corresponding official languages.*

Or. en

*Justification*

*This amendment is based on Article 7 of the PRIIPs Regulation.*