



European Securities and
Markets Authority

Response form for the Consultation Paper on EU Growth prospectus



Responding to this paper

ESMA invites responses to the questions set out throughout this Consultation Paper. Responses are most helpful if they:

1. respond to the question stated;
2. contain a clear rationale; and
3. describe any alternatives ESMA should consider.

ESMA will consider all responses received by 28 September 2017.

Instructions

In order to facilitate analysis of responses to the Consultation Paper, respondents are requested to follow the below steps when preparing and submitting their response:

4. Insert your responses to the questions in the Consultation Paper in the form “Response form_Consultation Paper on EU Growth prospectus”, available on ESMA’s website alongside the present Consultation Paper (www.esma.europa.eu → ‘Your input – Open consultations’ → ‘Consultation on technical advice under the new Prospectus Regulation’).
5. Please do not remove tags of the type <ESMA_QUESTION_EUG_1>. Your response to each question has to be framed by the two tags corresponding to the question.
6. If you do not wish to respond to a given question, please do not delete it but simply leave the text “TYPE YOUR TEXT HERE” between the tags.
7. When you have drafted your response, name your response form according to the following convention: ESMA_EUG_nameofrespondent_RESPONSEFORM. For example, for a respondent named ABCD, the response form would be entitled ESMA_EUG_ABCD_RESPONSEFORM.
8. Upload the form containing your responses, in Word format, to ESMA’s website (www.esma.europa.eu under the heading ‘Your input – Open consultations’ → ‘Consultation on technical advice under the new Prospectus Regulation’).

Publication of responses

All contributions received will be published following the close of the consultation, unless you request otherwise. Please clearly indicate by ticking the appropriate checkbox on the website submission page if you do not wish your contribution to be publicly disclosed. A standard confidentiality statement in an email message will not be treated as a request for non-disclosure. A confi-



dential response may be requested from us in accordance with ESMA's rules on access to documents. We may consult you if we receive such a request. Any decision we make not to disclose the response is reviewable by ESMA's Board of Appeal and the European Ombudsman.

Data protection

Information on data protection can be found at www.esma.europa.eu under the heading 'Data protection'.

Who should read this Consultation Paper

This Consultation Paper may be of particular interest to investors, issuers, including issuers already admitted to trading on a regulated market or on a multilateral trading facility, offerors or persons asking for admission to trading on a regulated market as well as to any market participant who is affected by the new Prospectus Regulation.

General information about respondent

Name of the company / organisation	Accountancy Europe, ECG, EGIAN
Activity	Audit/Legal/Individual
Are you representing an association?	<input checked="" type="checkbox"/>
Country/Region	Europe

Introduction

Please make your introductory comments below, if any:

<ESMA_COMMENT_EUG_1>

Accountancy Europe, the European Contact Group (ECG) and the European Group of International Accounting Networks and Associations (EGIAN) are basing this consultation response on the work that they conducted together on a simplified SME prospectus regime. This work consists of a paper establishing the principles of a prospective SME prospectus regime (published in May 2016)¹, as well as a model prospectus prepared on the basis of the paper's guidelines and principles (June 2017)².

Re-cap of the Accountancy Europe-ECG-EGIAN work

In the two publications, Accountancy Europe, ECG and EGIAN propose to render SME prospectuses more relevant for investors and focus on the issuer's business. A prospectus is usually the first broad public communication of a SME to a wider audience. Its purpose is to actively seek interaction with and funds from the market, and to raise investors' interest.

The current lengthy and contract-like prospectuses do not fit with the above principles. Ideally, SME prospectuses should be turned into documents with more concise and business focused data. This requires a re-think of the disclosures and their materiality, the format and presentation of the disclosures, and the costs involved.

Our 2016 paper identified three key objectives for an alleviated SME prospectus regime:

- introduce elements from investor presentations and analysts' research, while eliminating information with limited relevance to an investor
- make the information relevant to investors, and available in more accessible and user friendly formats
- reduce the cost of preparing a prospectus

Materiality should be considered for prospectus disclosures, in order to ensure their relevance and reduce the overall length of the prospectus. For small businesses in SME markets, and in particular for those that combine small offering sizes with small par value securities per (retail) investor, some information such as governance and forecasts, even if qualitative only, may not always be available or of most relevance. Markets may still – whilst allowing for lower costs of capital for more transparent issuers – provide capital for small companies that are not expected to deliver mature financial data in all instances.

Our model prospectus from 2017 put these principles into practice. It demonstrated in concrete terms to what degree a more investor-oriented and business-driven prospectus regime could alleviate disclosure burdens. The sheer number of pages was dropped from 180 to 60.

Another core element in our papers is the dividing of the prospectus disclosures into three categories:

¹ https://www.accountancyeurope.eu/wp-content/uploads/Prospectus_paper.pdf

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

- the first category consists of core information that should be placed in the prospectus itself. We consider this information to be most relevant for investors when they make their investment decisions
- the second category consists of ‘boiler plate’ information that could be incorporated by reference on the issuer’s website, with links provided in the prospectus. This will ensure the reduction of the sheer volume of information – much of which is not of immediate use to an investor
- the third category contains standard information which applies to any company or offer. This information could be set out on a website maintained by an external party such as the market operator, securities regulator, or an independent IPO platform. Unlike the second category of disclosures, however, this would not constitute incorporation by reference

For the Category two and three disclosures, our model prospectus contains a separate chapter (p. 53) which lists, in one location, all the elements that have either been incorporated by reference on the issuer’s website, or included on the third party website. This ensures that investors have a complete overview of all the information that has not been included in the prospectus itself, and a one-stop-shop access to all the relevant links.

The May 2016 publication and its follow-up aimed to spark discussion on a prospective new SME prospectus regime within the accountancy profession as well as amongst a wider external audience – ranging from EU institutions to European and national stakeholders. The challenge of ‘speaking’ to such a wide range of different audiences meant that a clear and universally understandable ‘language’ was used.

Therefore, the terminology and expressions set out in our publications are not necessarily fully in line with the equivalent in the Prospectus Regulation itself. For example, the second category of disclosures is meant to be for incorporation by reference, although not explicitly stated in our publications. To facilitate the up-take of our recommendations, we elaborate in this consultation how ESMA could, in a practical manner, incorporate additional elements from our publications into its technical advice to the Commission.

The challenges ahead

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 EU Growth Prospectus (EUGP). The Commission’s mandate³ to ESMA states, in particular, 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.”

As evidenced by the mandate, we believe that ESMA is not fully aligned with the mandate’s objectives established at Level I for a truly alleviated EUGP regime. We are not convinced that a “bottom-up”, ‘tabula rasa’ approach has been thoroughly applied. ESMA has significantly more leeway for a more ambitiously downsized disclosure regime for the EUGP whilst still respecting its Level 1 mandate.

In more practical terms, for example Annex II of the Prospectus Regulation sets out high-level guidance for the registration document of the full prospectus. This extends 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, the Regulation’s 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.

³ https://ec.europa.eu/info/sites/info/files/prospectus-directive-esma-mandate_en.pdf

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 downsized 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.

In the following three areas, in particular, we see more room for improvement:

- some of ESMA's proposed disclosures are not explicitly required at Level I. Much of this information should either be omitted or reside on the issuer's or a third-party website
 - we have attached as an annex to this consultation a document containing tables of disclosure comparisons. The tables list ESMA's proposed disclosure items for the EUGP registration document and the securities note, respectively. For each item, they indicate whether or not it is an explicit requirement from Level 1, and in addition whether this was a separate recommendation in our 2016 prospectus paper. The tables, therefore, allow for a thorough analysis and a quick and easy visualisation of the different disclosure regimes, and indicate where ESMA could consider further alleviations
- 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
- given the rapid development of technology, ESMA could consider enabling greater flexibility for alternative means of disclosing information

An additional challenge will be the reluctance of certain NCAs to allow for more alleviated prospectuses, potentially even in the case of EUGPs. The reason for this may be that some NCAs feel themselves to be liable for the disclosures and ensuring a sufficient protection of investors. We urge ESMA and the Commission to address this issue. Accountancy Europe, ECG and EGIAN are glad to assist.

In the meantime, the reluctance of certain NCAs should not constitute an obstacle for ESMA to put forward ambitiously downsized proposals for the EUGP. As mentioned above, ESMA's proposed 15 pages of disclosures for the registration document, for example, could create an expectation and a sense of duty for NCAs that these disclosures are the minimum acceptable items from a liability perspective.

In light of the above, Accountancy Europe's, ECG's and EGIAN's input to this consultation focuses, mainly, on the proposed disclosure requirements for the EUGP registration document as well as the EUGP securities note. We provide additional comments regarding the role of auditors and accountants in profit forecasts, as well as ESMA's proposal to allow EUGP issuers to use annual financial statements prepared under national accounting standards (local GAAPs), instead of the International Financial Reporting Standards (IFRS) or the International Accounting Standards (IAS).

<ESMA_COMMENT_EUG_1>

- 1. : Do you consider that specific sections should be inserted or removed from the registration document and / or the securities note of the EU Growth prospectus proposed in Article A? If so, please identify them and explain your reasoning, especially in terms of the costs and benefits implied.**

<ESMA_QUESTION_EUG_1>
TYPE YOUR TEXT HERE
<ESMA_QUESTION_EUG_1>

- 2. : Do you agree with the proposal to allow issuers to define the order of the information items within each section? Please elaborate on your response and provide examples. Can you please provide input on the potential trade-off between benefits for issuers coming from increased flexibility as opposed to further comparability for investors coming from increased standardisation?**

<ESMA_QUESTION_EUG_2>
TYPE YOUR TEXT HERE
<ESMA_QUESTION_EUG_2>

- 3. : Given the location of risk factors in Annexes IV and V of the Prospectus Regulation, do you consider that this information is appropriately placed in the EU growth prospectus? If not please explain and provide alternative suggestions.**

<ESMA_QUESTION_EUG_3>
TYPE YOUR TEXT HERE
<ESMA_QUESTION_EUG_3>

- 4. : Do you agree with the proposal that the cover note to the EU Growth prospectus should be limited to 3 pages? If not, please specify which would be an appropriate length limit for the cover note? Could you please explain your reasoning, especially in terms of the costs and benefits implied?**

<ESMA_QUESTION_EUG_4>
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<ESMA_QUESTION_EUG_4>

- 5. : Do you agree that the presentation of the disclosure items in para 81 is fit for purpose for SMEs? If not, please elaborate and provide your suggestions for alternative ways of presenting the disclosure items.**

<ESMA_QUESTION_EUG_5>
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<ESMA_QUESTION_EUG_5>



- 6. : Do you agree with the proposal to introduce a single registration document that is applicable in the case of equity and non-equity issuances? If not please provide your reasoning and alternative approach.**

<ESMA_QUESTION_EUG_6>
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<ESMA_QUESTION_EUG_6>

- 7. : Do you agree with the requirement to include in the EU Growth prospectus any published profit forecasts in the case of both equity and non-equity issuances without an obligation for a report by independent accountants or auditors? If not please elaborate on your reasoning. Please also provide an estimate of the additional costs involved in including a report by independent accountants or auditors.**

<ESMA_QUESTION_EUG_7>
Accountancy Europe, ECG and EGIAN agree with ESMA's proposal that there should be no obligation for the issuer to include a report by independent accountants or auditors for published profit forecasts both for equity and non-equity issuances. This could contribute to a less burdensome and more proportionate EUGP regime.

However, we would highlight that there are benefits to including reports by independent accountants or auditors. Accountancy practitioners have seen from experience that the benefits of such reports go beyond immediate costs – or at the very least such costs should be weighed against immediately non-visible benefits. An external opinion on the forecast information reduces asymmetry of information in the interests of the investor community. The direct benefits for the issuer may include lower costs of capital, and greater investor interest in the company.

Given these benefits, we believe that having the report will be a differentiating factor. Therefore, we would expect that the markets will continue to have a preference for including the report.

We note that ESMA's proposed disclosure Item 2.8.3. for the EUGP registration document calls for a statement indicating that the profit forecast has been compiled on the basis stated, prepared on a basis that is comparable with the annual financial statements and consistent with the issuer's accounting policies. With this statement, the issuer will thus take full responsibility for the profit forecasts.

With ESMA's proposal, it will be up to the issuer and where relevant, its advisors, to decide whether or not to seek the involvement of an independent accountant or auditor. The accountancy profession stands ready to continue to be involved, if an issuer requests it. We call for a clarification of the report's legal requirements and framework for instances where the issuer chooses, on a voluntary basis, to request the report. This framework should be based on the existing legal framework for mandatory reports.

<ESMA_QUESTION_EUG_7>

- 8. : Do you consider that the requirement to provide information on the issuer's borrowing requirements and funding structure under disclosure item 2.1.1 of the EU Growth registration document should be provided by non-equity issuers too? If yes, please elaborate on your reasoning.**

<ESMA_QUESTION_EUG_8>
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<ESMA_QUESTION_EUG_8>

9. : Do you think that the information required in relation to major shareholders is fit for purpose? In case you identify specific information items that should be included or removed please list them and provide examples,. Please also provide an estimate of elaborating on the materiality of the cost to provide such information items.

<ESMA_QUESTION_EUG_9>
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<ESMA_QUESTION_EUG_9>

10. : Do you agree that issuers should be able to include in the EU Growth prospectus financial statements which are prepared under national accounting standards? If not please state your reasoning. Please also provide an estimate of the additional costs involved in preparing financial statements under IFRS.

<ESMA_QUESTION_EUG_10>
Summary answer

In the immediate term, it may be necessary to allow issuers to include financial statements prepared under national accounting standards in the EUGP. We would, however, call for caution regarding ESMA's proposal and emphasise that this should be a temporary solution only.

The objective is to build truly European capital markets, whilst a national reporting solution would eventually hit its limit and prove insufficient. Discussions on a proportionate reporting solution for smaller entities are already taking place, notably between the Commission and the International Accounting Standards Board (IASB).

ESMA should take stock of and actively participate in these discussions, and once available apply the new system to the financial statements under the EUGP regime. Any eventual solution should be discussed and applied at an international level, instead of opting for EU-specific approaches.

Immediate term solution for the EUGP

In the immediate term for the EUGP, ESMA's proposal to allow the use of financial statements prepared under national accounting standards is reasonable. This should be a temporary solution, to be replaced once an appropriate accounting and reporting solution for smaller listed entities has been established on an internationally coordinated and agreed basis.

However, investors should be made aware of the known differences between a national accounting and reporting standards used by the issuer, and the IFRS. Information on such differences would be of a generic nature and applicable to a range of similar issuer. Therefore, in line with our paper on simplified prospectuses, we propose that such information should be placed on a third party website maintained by an external entity such as the market operator, securities regulator or an independent IPO platform. The purpose is to provide a platform in which more generic non-company specific information can be disclosed.

Need for a common 'language'

ESMA's proposed solution should be for the short term only. In the longer term, scaling up trading venues and promoting investments across borders is a necessity to attain the objective of better integrated European capital markets. Such integration can be fostered, notably, through the use of a common 'language' for financial information and statements – that is, a common accounting and reporting framework.

The lack of using such a common framework reduces comparability between financial statements and thereby hinders potential investors in making decisions about cross-border investments based on comparable information. By extension, this makes it more difficult for companies to raise financing from investors across borders and would be counter to the very objectives of the CMU.

It is, therefore, preferable for financial statements of issuers to be prepared using a common reporting framework that can be understood by investors from across the EU and beyond, and that depicts accountability, stewardship and comparability between entities. Not only would this enhance the appetite of cross-border investors for smaller local companies, but also foster the growth and pooling of trading venues across borders.

Challenges ahead and ongoing discussions

We acknowledge that many companies and stakeholders fear that the application of full IFRS may prove too burdensome especially for smaller entities. Full IFRS are seen as too complex and potentially leading to a disclosure overload. These concerns are already in the process of being addressed.

We understand that the Commission is discussing potential accounting solutions for smaller issuers listed on Multilateral Trading Facilities (MTFs) and SME Growth Markets, together with the IASB. The Commission also organised a conference on this topic in December 2016, where stakeholders from different backgrounds discussed options for possible solutions and approaches. Some form of alleviation, together with clarifications and guidance on the application of the IFRS, appeared to be a popular option. Ideally, such an IFRS regime has the potential to be scaled down, made proportionate and tailored for such companies, with the aim of reducing disclosure burdens.

Overall, any accounting and reporting solutions should be discussed, devised and implemented within the existing (full) IFRS framework, as IFRS for SMEs is not the right framework to pursue this for listed entities – even if they are SMEs. In addition, any EU-specific solutions should be avoided.

In summary, work to address these challenges is already ongoing. Further discussions on possible solutions should also take place between key stakeholders, and ESMA could play a decisive role in providing a forum for finding a future-oriented solution. Once such a solution is on the table, it should be applied for the EUGP as well.

<ESMA_QUESTION_EUG_10>

11. : Do you consider that there are other additions or deletions that would improve the utility of the EU Growth registration document? If yes, please specify.

<ESMA_QUESTION_EUG_11>

Yes, see our amendments to the proposed disclosures more specifically.

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 EU Growth Prospectus (EUGP). As elaborated in our introductory section, we believe that ESMA is not fully aligned with its mandate's objectives for a truly alleviated EUGP regime.

We are not convinced that a “bottom-up”, ‘tabula rasa’ approach has been thoroughly applied. ESMA has, therefore, significantly more leeway for a more ambitiously downsized disclosure regime for the EUGP whilst still respecting its Level 1 mandate. We elaborate on this further in the introductory section, as well as in our proposed disclosure amendments below.

An investor-oriented and business-driven proposal

Our 2016 paper identified three key objectives for an alleviated SME prospectus regime:

- introduce elements from investor presentations and analysts' research, while eliminating information with limited relevance to an investor
- make the information relevant to investors, and available in more accessible and user friendly formats
- reduce the cost of preparing a prospectus

Accountancy Europe, ECG and EGIAN proposed to divide the existing prospectus disclosures into three categories in our May 2016 paper on simplified prospectuses. First, the set of company-specific information that should be placed in the prospectus itself. Second, company-specific 'boiler plate' information that could be made available on the issuer's website. And third, more generic non-company specific information to be placed on a third party website.

Related to the latter category specifically, we recommend for ESMA to propose the establishment of third party websites maintained by an external entity such as the market operator, securities regulator or an independent IPO platform. The purpose is to provide a platform in which the above-mentioned generic non-company specific information can be disclosed.

We believe that Level I allows to a reasonable degree the application of the three-tier structure proposed in our prospectus paper. Some of ESMA's currently proposed disclosures are either not the most pertinent ones from a prospective investor's perspective, could be rendered more business-focused, and could be made available elsewhere – namely, on the issuer's website or a third party website.

Where Level I clearly ties ESMA's hands, it is difficult for it to propose disclosure to any other location than the prospectus itself – unless allowed by Article 19 on incorporation by reference. For other disclosure items not required at Level I, however, ESMA has the possibility to allow flexibility to disclose elsewhere (the issuer's website, third party website) than in the prospectus proper. The annex attached to this consultation provides an overview of the disclosure requirements between Level 1, ESMA's draft proposal and our prospectus paper.

Harness the potential of technology

New technologies are emerging at a fast pace, and people – including investors – are adopting them rapidly into their professional and personal lives. At the same time, the review and amending of legislation is necessarily a time-taking process.

By the time the next prospectus regime review takes place, potential technological solutions will again have taken significant leaps forward. It is, therefore, pivotal that sufficient flexibility on the use of technology is enabled early on. This is crucial, in particular, from the perspective of maintaining the relevance of prospectuses for investors, and ensuring that they are not mere liability shields.

With an abundance of technological solutions, there is little reason to stick to a conventional text-on-paper format for prospectuses. Given that one of the main purposes of a prospectus is to introduce a company and its management to prospective investors, the use of video-tools, apps or even QR codes – as an issuer sees fit – could greatly contribute to this objective.

Videos and interactive apps can 'close the distance' between a prospective investor and an issuer's management. The use of roadshow-like pitches and presentations of information, commentary on financial and past trends, explanation of KPIs, etc. would ensure a more diverse and easily digestible presentation format for investors. In turn, technologies such as the QR code would provide an alternative means of disclosing certain information, without including everything in one lengthy 200-page prospectus.

Not all of the above is likely to be possible in the context of the current prospectus legislation review, but we call on ESMA to take the first steps. These include enabling for a more extensive linking of information (especially those not explicitly required at Level I) to the issuer's website, allowing for the use of video links to complement the minimum required information, and encouraging the setting up of third-party websites and databases as elaborated in the above section.

Amendments to the proposed disclosures in the registration document

Overall, a key objective of the EUGP regime ought to be the reduction of the sheer volume of information in the EUGP, to a degree allowed by the Level I mandate. This would ensure that the disclosures are more focused on the issuer's personal profile and are more approachable for investors.

We have attached as an annex to this consultation a document containing tables of disclosure comparisons. The tables list ESMA's proposed disclosure items for the EUGP registration document and the securities note, respectively. For each item, they indicate whether or not it is an explicit requirement from Level 1, and in addition whether this was a separate requirement in our 2016 prospectus paper. The tables, therefore, allow for a quick and easy visualisation of the different disclosure regimes, and indicate where ESMA could consider further alleviations.

On the basis of this annex, the following proposed disclosures in the registration document, in particular, should be considered to be amended. The amending can take the form of complete deletion or, at the very least, providing flexibility for the issuer to choose where to disclose the information (e.g. on its website or on a third-party website):

- **Item 1. – Persons responsible, third party information, experts' reports and competent authority approval.** This section has been mandated by Level I Annex IV, which calls for the identification of "the issuer and its representatives and other individuals involved in the company's offer" – essentially, the "persons responsible for drawing up the registration document". We acknowledge the need to identify such persons in the prospectus, but question the need to include more extensive details and statements in the prospectus itself as they add no immediate value for an investor's initial investment decision and merely increase the volume of the prospectus:
 - **Items 1.2. – 1.5.** should not constitute mandatory requirements. If it chooses to include the information, the issuer should be allowed to add these to a dedicated location on its website, with appropriate links/references in the prospectus itself.
- **Item 2. – Strategy, performance and business environment.** This is a key section as it is here that the issuer introduces itself to a prospective investor. For the same reason, the section should not extend beyond what is necessary to provide core information on the issuer - more extensive descriptions of the business, its markets and customers, and its strategy can be placed on the issuer's website. Furthermore, we would recommend the following specific changes:
 - **Item 2.3. – Organisational structure.** This is not a requirement for the EUGP from Level 1. We would, therefore, propose to remove this requirement and give issuers the flexibility to decide whether and where (in the prospectus, on its website) to disclose such information.
 - **Item 2.6. – Regulatory Environment.** As far as we understand, this is not a specific requirement established at Level I and therefore should be removed. Moreover, this information is business sector specific, not specific to the issuer. This information could be made available on a third-party website or on the issuer's website, if it so wishes.
- **Item 3. – Risk factors.** ESMA's proposal to focus on risk factors that are material and specific to the issuer is sound. We would propose to additionally emphasise that these risk factors should, to the degree possible, be quantifiable.
- **Item 4. – Corporate governance.** This section should provide, in particular, an overview of selected key management members, their past track record in the same or similar value chains, markets and industries, the key drivers in the compensation package of any of the above key management members. We are, therefore, in most parts content with ESMA's proposed disclosures for this section. Having said that, more extended resumes and CVs of all management should rather reside on the issuer's website so as to avoid a disclosure overload
 - With regard to **Item 4.1.2.** in particular, we would question the need to include full five year details of "all companies and partnerships", as defined in point (a). This information is not specifically requested in Level I Annex IV, and could reside on a more extensive resume/CV to be placed on the issuer's website.
- **Item 5.1. – Major shareholders.** This is not an explicit requirement established at Level I for the EUGP. It is very specific information, not necessarily fully known to the issuer itself, and that is

unlikely to be immediately pertinent to an investor's initial considerations. Information on major shareholders should not be required and the issuer should have the flexibility to include or not such information.

- **Item 5.6. – Memorandum and Articles of Association.** This information is not required at Level I. These should reside on the issuer's website.
- **Item 5.7. – Material contracts.** This is not a requirement established on EUGP's at the Level I. These should reside on the issuer's website.
- **Item 6. – Financial statements and key performance indicators (KPIs).** Annex IV of the Prospectus Regulation calls for specifying "which financial statements" covering the latest financial years (two for equity securities, one for non-equity securities) must be included in the EUGP. Article 19 of the Prospectus Regulation allows for the possibility of incorporating annual and interim financial information as well as audit reports and financial statements by reference. A key objective of the EUGP must be to ensure that it is relevant and readable for investors. However, financial statements are often several tens if not hundreds of pages of a prospectus. This contributes to overly lengthy prospectuses filled with information that would not be of immediate pertinence to a prospective investor. Much of such information should, therefore, reside on the company's website and only summarised information, to a degree possible, be included in the EUGP itself in order to ensure that prospectuses are lighter and accessible. For more details on our views regarding incorporation by reference, please see the below section.
 - Issuers should be encouraged to provide comments, explanations and descriptions on the summarised financial information and visible trends in the prospectus itself
- **Item 6.1.3. – Accounting Standards.** We agree with ESMA's proposal as an immediate term solution. However, known differences between a country's national accounting framework and the IFRS should reside on a third-party website. For further details, please see our response to Question 10.
- **Item 6.6. – Dividend policy.** As this is not an explicit requirement in Level I, the requirement should be deleted. The issuer should be granted the flexibility to add or not information and details on its dividend policy in the prospectus or on its website.
- **Item 6.7. – Pro forma financial information.** As this does not constitute an explicit Level 1 requirement for the EUGP, the issuer could be given the flexibility to include or not such information in the prospectus or on its website, together with the report prepared by an independent accountant or auditor.

Additional thoughts on incorporation by reference

Incorporation by reference is not a new concept, having been an essential part of the EU's prospectus regime for well over ten years. As elaborated in Article 19, the range of documents and information that can already be incorporated by reference is vast. Indeed, on the basis of the existing regime alone many of the disclosures in the second category of information in our prospectus paper could be incorporated by reference on the issuer's website.

However, incorporation by reference is not currently used to its full potential. Many issuers, advised by relevant experts, choose to include a great volume of information in the prospectus itself, for liability and legal protection reasons. This is an unfortunate practice which only leads to greater length of prospectuses, and renders them into legalistic liability shield documents.

Instead, prospectuses should ideally introduce the issuer to an investor, and be focused as much as possible on the issuer's profile and particularities. It should provide prospective investors with the information that they need for an initial investment decision.

As elaborated in our introduction to this consultation, an additional challenge is the reluctance of certain NCAs to allow for more alleviated prospectuses, potentially even in the case of EUGPs. The reason for this may be that some NCAs feel themselves to be liable for the disclosures and ensuring a sufficient protection of investors.

We believe, however, that more can be done to further encourage incorporation by reference and shorter prospectuses:

- given the mandate indicated in the Prospectus Regulation Article 19 (4) on incorporation by reference, we invite ESMA to consider what additional documentation could be added on the list of documents in Paragraph 1. Again, a particular objective should be to reduce the volume of information in the prospectus
- we call on ESMA to more explicitly encourage incorporation by reference, and to alleviate any liability-related concerns from both the issuers' and NCAs' side. Accountancy Europe, ECG and EGIAN offer our help
- we encourage ESMA to indicate, in its technical advice on EUGPs, which items of the EUGP can be incorporated by reference. This would raise awareness on the opportunity and demonstrate, in concrete terms, the extent to which incorporation by reference could contribute to lighter prospectus disclosures

<ESMA_QUESTION_EUG_11>

12. : Do you consider that the disclosure items in the EU Growth registration document are clear enough to be understood by issuers? If not, please provide your views on whether any of the items would require additional guidance to issuers.

<ESMA_QUESTION_EUG_12>

This response relates to the disclosure Item 3. in the EUGP registration document on *risk factors*. We are not proposing amendments to the Item as proposed, but would like to make the following clarifications.

There are currently different requirements for what risk factors should entail depending on where they are disclosed. The risk factors in prospectuses are not necessarily aligned with those in the financial statements (where risk factors are often defined by the relevant IFRS or national GAAP), or even management reports. This means that prospective investors risk receiving different information on a company's risk factors depending on their source (prospectus, financial statements, management reports).

This is not an issue to be addressed in the disclosure Item 3. for the EUGP, since this relates to the prospectus regime only. However, in the future it may be worthwhile to streamline risk factors to ensure that they are comparable for the same company, regardless of whether these stem from its prospectus, financial statements or management reports. In general, risk factors should be disclosed only if material and specific to the company.

<ESMA_QUESTION_EUG_12>

13. : Please indicate if further reduction or simplification of the disclosure requirements of the EU Growth registration document could significantly impact on the cost of drawing up a prospectus. If applicable, please include examples and an estimate of the cost alleviation to issuers.

<ESMA_QUESTION_EUG_13>

TYPE YOUR TEXT HERE

<ESMA_QUESTION_EUG_13>

14. : Do you think that the presentation of the disclosure items in para 97 is fit for purpose for SMEs? If not, please elaborate and provide your suggestions for alternative ways of presenting the information items.

<ESMA_QUESTION_EUG_14>



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<ESMA_QUESTION_EUG_14>

15. : Do you agree with the proposal to introduce a single securities note that is applicable in the case of equity and non-equity issuances? If not please provide your reasoning and alternative approach.

<ESMA_QUESTION_EUG_15>
TYPE YOUR TEXT HERE
<ESMA_QUESTION_EUG_15>

16. : Do you consider that the disclosure items in the EU Growth securities note are clear enough to be understood by issuers? If not, please provide your views on whether any of the items would require additional guidance to issuers.

<ESMA_QUESTION_EUG_16>
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<ESMA_QUESTION_EUG_16>

17. : Do you consider that there are any other additions or deletions that would improve the utility of the EU Growth securities note? If yes, please specify and provide examples. In addition, please consider whether the categorisation of disclosure items for non-equity securities is fit for purpose. If not, please specify and provide your suggestions.

<ESMA_QUESTION_EUG_17>

As elaborated in our response to Question 11, we are conscious of ESMA's need to respect, but not go significantly beyond, its Level I mandate and to provide for sufficient investor protection. As with the registration document, we feel that ESMA could have been more ambitious in alleviating the disclosure requirements of the securities note whilst still respecting Level I.

At the same time, we recognise that ESMA's leeway in this regard is perhaps more limited than with the registration document, given that Annex V of the Prospectus Regulation is more specific on the disclosure criteria.

The proposed disclosures indicated below, which are not bound by Level I, should be considered to be amended. Our proposed amendments aim to reduce the sheer volume of the EUGP itself, and to decrease the amount of disclosures stemming from purely legalistic considerations.

Such disclosures may be broadly relevant, but from an investor's perspective they add little to no value to the prospectus itself whilst merely contributing to greater length and the tick-the-box nature of the document. Since many of the disclosures outlined below are not subject to a specific requirement at Level I, we also deem it possible for ESMA to propose the inclusion of some of this information on the issuer's website or a third party website – see our reply to Question 11 for more details on this.

As explained in our response to Question 11, we have attached as an annex to this consultation a document containing tables of disclosure comparisons. On the basis of this annex, the following proposed disclosures in the securities note, in particular, should be considered to be amended.

The amending can take the form of complete deletion or, at the very least, providing flexibility for the issuer to choose where to disclose the information (e.g. on its website or on a third-party website):

- **Item 1. – Purpose, persons responsible**, third party information, experts' reports and competent authority approval. This section has been mandated by the Level I Annex V, which calls for the identification of “the issuer and its representatives and other individuals involved in the company’s offer or admission to trading” – essentially, the “persons responsible for drawing up the prospectus”. We acknowledge the need to identify and indicate such persons in the prospectus, but would question the need to include more extensive details and statements in the prospectus itself as they add no immediate value to an investor’s initial investment decision and increase the volume of the prospectus. These details could reside on a dedicated location within the issuer’s website, with appropriate links/references made in the prospectus itself:
 - **Items 1.2. – 1.6.** should not be mandatory requirements. If it chooses to include the information, the issuer should be allowed to add it on a dedicated location on its website, with appropriate links/references in the prospectus itself.
- **Item 3. – Risk factors.** As mandated by the Level I agreement, the EUGP must include “risk factors specific to the securities”. In its consultation document, ESMA for its part specifies that “material risks” specific to the offered securities should be disclosed. Accountancy Europe, ECG and EGIAN support these objectives insofar as they truly relate to securities-specific material risk factors, and not generic risk factors. Examples of generic risk factors include the following:
 - *There is currently no trading market for the Ordinary Shares*
 - *The trading price of the Ordinary Shares may fluctuate in response to various factors, many of which are outside the Group’s control*
 - *Pre-emption rights for US and other non-UK holders of Ordinary Shares may be unavailable*
- **Item 4. – Details of the offer/admission.** To the extent possible, ESMA could consider the possibility to remove the mandatory disclosure of more specific details of the offer in the prospectus itself, and allow issuers the flexibility to add such information on its website:
 - **Items 4.1.4. – 4.1.11.** which, albeit very pertinent for an investor to have access to if needed, do not constitute major pieces of information based on which an initial investment consideration is made. They are, moreover, not specified in Level I Annex V as specifically required disclosures. These requirements could be removed and the issuer granted flexibility to add the information on its website, if it so chooses.
 - **Item 4.5. – Placing and underwriting.** This also constitutes an important piece of information but would be better placed on the issuer’s website.
 - **Item 4.7. – Selling securities holders.** This is not a requirement under Level I Annex V. The issuer could be allowed the flexibility to include such information – including lock-up agreements – on its website.
- **Item 5.1.15. – Where the investment entails a specific tax regime.** We are aware that Paragraph 47 of the Level I’s preamble limits ESMA’s room for manoeuvre somewhat, and imposes an obligation to include a generic “warning” that the tax regimes of the investor’s and the issuer’s Member States may impact the income received from the securities. On top of such a warning, Level I calls for the inclusion of information of any applicable specific tax regimes. We applaud ESMA’s decision to only ask for a “summarised description”, but would call for greater clarification as to what this might entail. Any lengthy explanations should be avoided. More detailed elaborations on the tax regimes should be placed on the third-party website discussed above, as this is generic information applicable to any issuer or offer. The EUGP could include, for example, a very generic indication of applicable specific tax regimes with a brief description, followed by a link to the third-party website where more detailed information can be found.

<ESMA_QUESTION_EUG_17>

18. : Please provide an estimate of the benefit in terms of reduced costs that the production of a single securities note implies.

<ESMA_QUESTION_EUG_18>



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<ESMA_QUESTION_EUG_18>

19. : Please indicate if further reduction or simplification of the disclosure requirements of the securities note of the EU Growth prospectus could significantly impact on the cost of drawing up a prospectus. If applicable, please include examples and an estimate of the cost alleviation to issuers.

<ESMA_QUESTION_EUG_19>
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<ESMA_QUESTION_EUG_19>

20. : Do you think that the presentation of the disclosure items in para 112 is fit for purpose for SMEs? If not, please elaborate and provide your suggestions for alternative ways of presenting the information items.

<ESMA_QUESTION_EUG_20>
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<ESMA_QUESTION_EUG_20>

21. : Given the reduced content of the summary of the EU Growth prospectus do you agree with the proposal to limit its length to a maximum of six A4 pages? If not please specify and provide your suggestions.

<ESMA_QUESTION_EUG_21>
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<ESMA_QUESTION_EUG_21>

22. : Do you agree that the number of risk factors could be reduced to ten instead of 15? Do you think that in some cases it would be beneficial to allow the disclosure of 15 risk factors? If yes, please elaborate and provide examples. Please also provide a broad estimate of any benefits (e.g. in terms of reduced compliance costs) associated with the disclosure of a lower number of risk factors.

<ESMA_QUESTION_EUG_22>
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<ESMA_QUESTION_EUG_22>

23. : Do you agree that SMEs are less likely to have their securities underwritten? If not, should there be specific disclosure on underwriting in the summary as set out in Article 7(8)(c)(ii) of the Prospectus Regulation?

<ESMA_QUESTION_EUG_23>
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<ESMA_QUESTION_EUG_23>



24. : Do you agree with the content of the key financial information that is set out in the summary of the EU Growth prospectus? If not, please elaborate and provide examples.

<ESMA_QUESTION_EUG_24>
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<ESMA_QUESTION_EUG_24>

25. : Do you think condensed pro forma financial information should be disclosed in the summary of the EU Growth prospectus? Please state your views and explain. In addition, please provide an estimate of the additional costs associated with the disclosure of pro forma financial information in the summary compared to the additional benefit for investors from such disclosure.

<ESMA_QUESTION_EUG_25>
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<ESMA_QUESTION_EUG_25>

26. : Do you consider that there are any other additions or deletions that would improve the utility of the EU Growth registration document? If yes, please specify and provide examples.

<ESMA_QUESTION_EUG_26>
We assume that here ESMA refers to the summary of the EU Growth Prospectus and not the registration document. In principle, the EUGP summary should not contain information that is not in the EUGP itself. In our responses to Questions 11 and 17, we suggest to remove certain disclosure items proposed by ESMA. Thus, we would propose to delete from the summary any information – if any – that we proposed to delete or to add to the issuer's or a third party's website in our responses to questions 11 and 17.
<ESMA_QUESTION_EUG_26>

27. : Do you consider that the disclosure items in the specific summary of the EU Growth prospectus are clear enough to be understood by issuers? If not, please provide your views on whether any of the items would require additional guidance to issuers.

<ESMA_QUESTION_EUG_27>
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<ESMA_QUESTION_EUG_27>

28. : Please indicate if further reduction or simplification of the disclosure requirements of the summary of the EU Growth prospectus could significantly impact on the cost of drawing up a prospectus. If applicable, please include examples and an estimate of the cost alleviation to issuers.

<ESMA_QUESTION_EUG_28>
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