

# SENATE OF THE REPUBLIC

XVII LEGISLATIVE PERIOD

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## RESOLUTION OF THE 6TH STANDING COMMITTEE

(Finance and the Treasury)

(*Rapporteur*: RICCHIUTI)

*approved at the session of 22 June 2016*

CONCERNING 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) 583 FINAL)

*pursuant to Article 144(1) and (6) of the Rules of Procedure*

Notified to the President's Office on 5 July 2016

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The Committee, having examined the act,

whereas:

the prospectus to be published when securities are offered to the public, harmonised at European Union level, contains information on the issuing company and the securities being offered; it represents an essential tool to aid companies to tap into more sources of capital in the EU, make markets work more efficiently and offer investors and savers an essential information tool;

the prospectus is a mandatory document containing all of the information on the issuer, to enable decisions to be made on investments in the various types of security issued by the company;

and considering that

the proposal falls within the scope of the regulatory fitness and performance activities aimed at identifying specific sectors where it is possible to simplify rules and reduce burdens and costs;

the proposed measures should in particular:

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;

achieve more convergence between the EU prospectus and other EU disclosure rules;

whereas the proposed measures focus on four distinct types of issuer:

issuers whose securities are already listed on a regulated market or the future SME growth market, which should be guaranteed the benefit of a simplified prospectus for their secondary issuances;

SMEs, which we propose should be offered the option to draw up a distinct, tailor-made prospectus when they offer securities to the public, focusing on information that is material and relevant for companies of such size;

frequent issuers, i.e. companies that intend to have frequent recourse to capital markets, for which provision is made for reducing burdens and costs by making use of the annual universal registration document, a "shelf" document that is cleared by the competent authority and allows such issuers to swiftly seize opportunities to raise capital;

issuers of non-equity securities with a high denomination per unit, for which the proposal provides for the removal of the prospectus exemption, with a view to removing one of the identified barriers to secondary liquidity on European bond markets;

whereas, furthermore:

the information prospectus, originally devised by the Community legislator to incorporate all of the information on the product and on the party that issued it, has not proven to be a suitable means of providing an effective response to information needs, as it has appeared to be too extensive, redundant and complex; the best way of overcoming this problem lies in awareness of the need to extract "clear information" from "exhaustive information";

issues a favourable opinion on the proposal, while making the following points:

the legal basis is correctly identified as Article 114 of the Treaty on the Functioning of the

European Union on the harmonisation of national legislation for the purposes of the functioning of the internal market, having regard to the the crucial role that a harmonised prospectus regime with attendant passporting opportunities plays in the functioning of an internal market for raising equity and debt;

as concerns the principle of subsidiarity, the proposal for a regulation in question repeals Directive 2003/71/EC of the European Parliament and of the Council of 4 November 2003 and thus replaces a Directive with a Regulation, in an approach intended to maximise convergence between the laws of the Member States;

the principle of proportionality is also respected, in that the chosen options are designed solely to reduce the compliance burden for the following target groups: SMEs, secondary issuers, frequent issuers, issuers of non-equity securities. The cited target groups are expected to benefit from the proposed reforms to varying degrees;

with regard to investors and savers, the Committee suggests that the prospectus summary provided for in Article 7 of the proposal should, in the interests of conciseness and clarity, not exceed a limited number of pages. The need to enable all potential investors to understand the implications of an investment could justify further reductions in the length of such a document, which would realistically be the main source of information when choosing an investment. The Committee maintains that clear, simple and complete information, in a more concise form, is the best guarantee for savers and investors who — irrespective of the advice provided by sector operators — wish to make a personal assessment, weighed wherever possible against the use of their own financial means;

it has also been considered appropriate to make provision, as part of the information contained in the summary prospectus, for a specific indication of the types of risk indicated and the degree of risk associated with the securities offered, possibly highlighted with specific colour coding; furthermore, such indications should be followed by text explaining the types of risk. In particular, the Committee proposes an indication of, successively, the risks associated with the market, the risks associated with the issuer's creditworthiness and the complexity of the financial product, stating how they are linked to the product issued and offered to the public. The Committee therefore considers it would be appropriate to include summary "colour-coding" information, to give the investor an immediate overview of the entire risk associated with the investment.

## COMMENTS AND PROPOSALS OF THE 14TH STANDING COMMITTEE

### (EUROPEAN UNION POLICIES)

(Rapporteur: COCIANCICH)

25 February 2016

The Committee, having examined the document referred to above,  
whereas:

the prospectus to be published when securities are offered to the public, harmonised at European Union level, containing information on the issuing company and the securities being offered, represents an essential tool to help companies tap into more diverse sources of capital from anywhere within the European Union, make markets work more efficiently and offer investors and savers additional opportunities to put their money to work, in order to enhance growth and create jobs;

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;

although the prospectus regime functions well overall, the proposal for a Regulation provides for further improvements to alleviate the administrative burden for companies which draw up a prospectus (especially SMEs) and to make it into an even more valuable information tool for potential investors;

the proposal falls within the scope of the regulatory fitness and performance activities aimed at identifying specific sectors where it is possible to simplify rules and reduce burdens and costs;

the proposed measures should in particular i) reduce the administrative burden of drawing up of prospectus for all issuers, in particular for SMEs, frequent issuers of securities and secondary issuances; ii) make the prospectus a more relevant disclosure tool for potential investors, especially in SMEs; and iii) achieve more convergence between the EU prospectus and other EU disclosure rules;

whereas the proposed measures focus on four distinct types of issuer:

issuers whose securities are already listed on a regulated market or the future SME growth market, which should be guaranteed the benefit of a simplified prospectus for their secondary issuances;

SMEs, which we propose should be offered the option to draw up a distinct, tailor-made prospectus when they offer securities to the public, focusing on information that is material and relevant for companies of such size;

frequent issuers, i.e. companies that intend to have frequent recourse to capital markets, for which provision is made for reducing burdens and costs by making use of the annual universal registration document, a "shelf" document that is cleared by the competent authority and allows such issuers to swiftly seize opportunities to raise capital;

- issuers of non-equity securities with a high denomination per unit, for

which the proposal provides for the removal of the prospectus exemption, with a view to removing one of the identified barriers to secondary liquidity on European bond markets;

comments favourably on the proposal, within its area of responsibility, with the following remarks:

the legal basis is correctly identified as Article 114 of the Treaty on the Functioning of the European Union on the harmonisation of national legislation for the purposes of the functioning of the internal market, having regard to the crucial role that a harmonised prospectus regime with attendant passporting opportunities plays in the functioning of an internal market for raising equity and debt;

as concerns the principle of subsidiarity, the proposal for a regulation in question repeals Directive 2003/71/EC of the European Parliament and of the Council of 4 November 2003 and thus replaces a Directive with a Regulation, in an approach intended to maximise convergence between the laws of the Member States;

the principle of proportionality is also respected, in that the chosen options are designed solely to reduce the compliance burden for the following target groups: SMEs, secondary issuers, frequent issuers, issuers of non-equity securities. All of these groups are expected to benefit from the proposed reforms to varying degrees;

in this regard we would emphasise that the summary prospectus provided for in Article 7 of the proposal, to be drawn up as a short document, should not exceed four sides of A4 when printed, as opposed to the six provided for in the proposal. The need to enable all potential investors to understand the implications of an investment could justify further reductions in the length of such a document, which would realistically be the main source of information when choosing an investment. Clear, simple and complete information, in a more concise form, is the best guarantee for savers and investors who — irrespective of the advice provided by sector operators — wish to make a personal assessment, weighed wherever possible against the use of their own financial means;

furthermore, it would be appropriate to make provision, as part of the information contained in the prospectus, for a specific indication of the degree of risk associated with the securities offered, possibly highlighted with specific colour coding, in order to give the investor an immediate overview of the risk associated with the investment.