EC - Transparency Register:
1992865484-43

LISTING ACT AMENDMENTS TO DELEGATED REGULATION ON THE CONTENT OF PROSPECTUS

EUROPEAN COMMISSION'S CONSULTATION

AMAFI's answer

AMAFI is the trade association representing financial markets' participants of the sell-side industry located in France. It has a wide and diverse membership of more than 170 global and local institutions notably investment firms, credit institutions, broker-dealers, exchanges and private banks. They operate in all market segments, such as equities, bonds and derivatives including commodities derivatives. AMAFI represents and supports its members at national, European and international levels, from the drafting of the legislation to its implementation. Through our work, we seek to promote a regulatory framework that enables the development of sound, efficient and competitive capital markets for the benefit of investors, businesses and the economy in general.

AMAFI welcomes the opportunity to comment on the proposal of the European Commission to amend the Delegated Regulation regarding the content of prospectuses[1] in the context of the Listing Act[2].

In its response, AMAFI calls for targeted adjustments to ensure that the Level 2 measures remain consistent with the flexibility provided by the Prospectus Regulation, reflect established market practices and avoid introducing operational constraints that could negatively affect the efficiency of EU capital markets.

In particular, AMAFI recommends removing certain provisions that would impose a rigid structure of the prospectuses (*I.A*, *I.B*), adjusting some of the newly introduced ESG-related disclosure requirements to better reflect the operational realities of issuance programmes (*II.A*, *II.B*, *II.C*, *II.D*), and correcting drafting inconsistencies (*III.A*, *III.B*).

[1] Commission Delegated Regulation (EU) 2019/980 of 14 March 2019 supplementing Regulation (EU) 2017/1129 as regards the format, content, scrutiny and approval of the prospectus to be published when securities are offered to the public or admitted to trading on a regulated market

[2] Regulation (EU) 2024/2809 amending Regulations (EU) 2017/1129, (EU) No 596/2014 and (EU) No 600/2014 to make public capital markets in the Union more attractive for companies and to facilitate access to capital for small and medium-sized enterprises.

I. REMOVAL OF PROVISIONS IMPOSING A RIGID STRUCTURE OF THE PROSPECTUSES

A. DELETION OF ARTICLE 24.1B TO PRESERVE THE TRIPARTITE PROSPECTUS STRUCTURE

Amendments to Article 24 on the format of a prospectus for equity securities, and in particular Article 24.1b, are problematic and create significant confusion, as they do not appear to be aligned with established market practices. In particular, they depart from the practice used on the French market, where the tripartite prospectus structure has been widely endorsed[3]. In this framework, the marketing of IPOs is typically based on the prior publication of a Registration Document, followed by the publication of a Securities Note, with the Summary completing the prospectus package. This approach is strongly supported by market participants as it is instrumental for the attractiveness of capital markets. For that reason, it was endorsed by the Paris Europlace IPO Forum Working Group in its final report[4]. That report highlighted the use of the tripartite prospectus format as a key tool to revive financial transactions. It has proven to be well understood by market participants and investors and contributes to the efficiency and clarity of the IPO process on the Paris market.

Moreover, this approach appears inconsistent with Article 6(3) of the Prospectus Regulation (*Regulation 2017/1129*), which expressly allows a prospectus to be drawn up as separate documents. In this context, nothing in the Level 1 framework requires the use of a single document format. The amendments therefore seem to depart from both the flexibility provided by the Prospectus Regulation and the established market practice relying on the tripartite prospectus structure.

AMAFI's proposal

Delete proposal for a new article 24.1b.

B. REMOVAL OF MANDATORY SEQUENCING IN ARTICLE 24A TO REFLECT MARKET PRACTICE

The proposed introduction of mandatory sequencing for standalone prospectuses for non-equity securities (including so-called "*drawdown*" prospectuses prepared under debt issuance programmes, where the use of the base prospectus is restricted under the Prospectus Regulation) is unnecessarily complicated (*draft RD, art. 24a*).

In particular, standalone and drawdown prospectuses are often relatively short, targeted documents, and are frequently prepared under tight time constraints. In addition, as drawdown prospectuses are

[3] Lamfalussy process. The Treaty on the Functionning of the EU, art. 290 provides that: « *A legislative act may delegate to the Commission the power to adopt non-legislative acts of general application to supplement or amend certain non-essential elements of the legislative act* ».
[4] Recommandations du Groupe de Travail sur les évolutions possibles des pratiques IPO en France.

read together with the base prospectus, imposing mandatory sequencing - which differs from those of the base prospectus - is not relevant.

AMAFI's proposal

Maintaining the current ordering and structure of information without application of mandatory sequencing in standalones and drawdown prospectuses would better reflect market practice and support the objectives of clarity and usability for investors.

II. ADJUSTMENTS OF CERTAIN ESG-RELATED DISCLOSURE REQUIREMENTS (ANNEX 22A)

A. REMOVAL OF MANDATORY PERCENTAGE DISCLOSURE OF EU TAXONOMY OR THIRD-COUNTRY CLASSIFICATION ALIGNMENT

AMAFI supports the objective of improving transparency for investors with respect to ESG-related features of financial instruments. At the same time, some of the proposed disclosure requirements raise challenges for issuers preparing base prospectuses under issuance programmes. These issues arise from the requirement set out in Annex 22a to disclose the percentage of allocation to activities compliant with the EU Taxonomy (Items 1.1.1[5]) or aligned with third-country classification systems (Item 1.1.2[6]).

This represents a new element that was neither included in the ESMA's consultation of October 2024[7] on the review of the Prospectus Delegated Regulation, nor in ESMA's Final Report published in June 2025[8]. The introduction of this additional requirement at the stage of the Commission's draft Delegated Regulation therefore constitutes a significant change compared to the proposal previously consulted upon with market participants.

This raises challenges, first in light of the timeline for the application of the revised prospectus annexes, expected to apply from 5 June 2026. Introducing a new quantitative disclosure requirement only a few months before the expected entry into force of the revised framework makes it particularly

[5] "*Where the non-equity securities offered to the public or admitted to trading on a regulated market are advertised as aligned with, eligible under or otherwise adhering to the EU taxonomy, in accordance with Regulation (EU) 2020/852 of the European Parliament and of the Council, clearly state which percentage of the proceeds will be allocated to activities compliant with the EU taxonomy.*" European Commission, Draft delegated regulation, Annex 22a, Section 1, Item 1.1.1.

[6] "*(d) clearly state which percentage of the proceeds will be allocated to economic activities aligned with the third-party categorisation system*". European Commission, Draft delegated regulation, Annex 22a, Section 1, Item 1.1.2.

[7] ESMA, Consultation Paper on draft technical advice concerning the Prospectus Regulation and on updating the CDR on metadata, 28 October 2024.

[8] ESMA, Final Report Technical advice concerning the Prospectus Regulation and the RTS updating the CDR on metadata, 12 June 2025.

difficult for issuers to adapt their documentation processes and internal methodologies in a robust manner.

Secondly, the proposal requires issuers to disclose this percentage as Category A information, meaning that it must be included directly in the base prospectus. However, in practice such information is intrinsically linked to a specific issuance and to the effective allocation of proceeds. At the time a base prospectus is approved, the issuer does not yet know the characteristics of future issuances that may take place under the programme. In particular, the issuer cannot determine with sufficient precision the final size of the issuance, the timing of allocation or the eligible projects or assets that may ultimately be financed.

Issuance programmes frequently give rise to multiple issuances with different characteristics and potentially different allocations of proceeds. The percentage of taxonomy alignment may therefore vary from one issuance to another. Requiring the disclosure of a fixed percentage in the base prospectus would create a significant risk that the information becomes inaccurate once the issuance takes place or will block the issuer to only select projects which comply with the percentage stated in the base prospectus.

If this requirement at programme level was maintained, it could create unintended disincentives. The obligation to provide a quantitative percentage at the stage of the validation of the base prospectus may discourage issuers from referring to the EU Taxonomy or to third-country classification systems in their prospectus documentation. This would run counter to the broader objective of encouraging the use of sustainable finance taxonomies as reference frameworks for sustainable investments.

AMAFI's proposal

Remove the requirement to disclose a quantitative percentage of allocation of proceeds to activities compliant with the EU Taxonomy or aligned with third-party categorisation system from Annex 22a. If the Commission nevertheless considers that such quantitative disclosure should be maintained, this information must not be required as Category A information. Instead, it could be disclosed as Category C information, allowing the percentage to be determined and communicated at issuance level, for example in the final terms or in allocation reporting, once the allocation of proceeds is known.

B. CLARIFICATION OF THE TERMINOLOGY USED IN ITEM 1.1.1

The wording used in Item 1.1.1 raises interpretative concerns. In particular, the expressions "*as aligned with, eligible under or otherwise adhering to the EU taxonomy*" and "*compliant with the EU taxonomy*" lack clarity, especially considering that the concept of "*alignment*" is used for third-party categorisation systems.

The term "*eligible under*" introduces confusion, as eligibility does not imply compliance. Similarly, "*otherwise adhering to*" could be interpreted either as a synonym for "*aligned with*" or as a broader and less stringent notion.

Moreover, the broad meaning of the term "*advertised*" in Item 1.1.1, as defined in the Prospectus Regulation[9], could imply that any marketing materials or investor communications (including verbal communications) should not refer to the EU Taxonomy, unless the issuer can provide a specific percentage at the base prospectus stage.

It should therefore be clarified whether this concept refers to activities that are merely Taxonomy-eligible or to activities that are fully Taxonomy-aligned, including compliance with the technical screening criteria, the "*do no significant harm*" principle and the minimum safeguards requirements.

AMAFI's proposal

Amend the wording of Item 1.1.1 to be shortened to "*advertised as aligned with the EU taxonomy*" (removing "*eligible under or otherwise adhering to*").

C. RECLASSIFICATION OF THE DISCLOSURE OF THE INTENDED SHARE OF PROCEEDS TO CATEGORY C

Item 2.1.1(a) of Section 2 in Annex 22a requires the disclosure of "*the intended share of the proceeds of the non-equity securities to be allocated to the sustainable project(s) and activities*". This information is proposed as Category B, meaning that it should be determined at the stage of the validation of the base prospectus.

However, the intended share of proceeds is typically defined at issuance level and may vary from one issuance to another depending on the issuer's funding needs and the pipeline of eligible projects.

In this context, the disclosure of such information in the base prospectus would have limited added value and may create a risk that the information becomes outdated or inaccurate.

AMAFI's proposal

The disclosure of "*the intended share of the proceeds of the non-equity securities to be allocated to the sustainable project(s) and activities"* would be more appropriately made at issuance level and be classified as Category C information.

[9] "*'advertisement' means a communication with both of the following characteristics:*
(i) relating to a specific offer of securities to the public or to an admission to trading on a regulated market; (ii) aiming to specifically promote the potential subscription or acquisition of securities;
Regulation (EU) 2017/1129, Article 2(k).

D. DELETION OF ITEM 2.1.2 TO AVOID DUPLICATION IN SUSTAINABILITY DISCLOSURE REQUIREMENTS

The disclosure requirements set out in Items 2.1.1 and 2.1.2 may lead to unnecessary duplication between the provisions describing the sustainability criteria applicable to the use of proceeds.

Item 2.1.1, point b) requires issuers to provide a description of the intended allocation of proceeds to sustainable projects or activities, together with the goals and characteristics of those projects and the criteria used to determine that they are sustainable. This provision captures the key elements of the sustainability framework applied by the issuer, including the methodology used to assess whether projects or activities qualify as sustainable.

Item 2.1.2 introduces an additional disclosure requirement in cases where the proceeds of the securities are used, or expected to be used, to purchase underlying loans or other financial or fixed assets considered sustainable. In such situations, issuers would be required to disclose the criteria used to determine the sustainability of those assets, including whether they comply with, are eligible under, or otherwise adhere to the EU Taxonomy or to a third-party classification system.

In practice, the information required under Item 2.1.2 appears to substantially overlap with the disclosure already required under Item 2.1.1(b), which refers to the criteria used to determine that the relevant projects or activities are sustainable. Where proceeds are allocated to sustainable loans or other assets, the criteria used to assess their sustainability would normally form part of the overall sustainability framework described under Item 2.1.1.

AMAFI's proposal

Delete Item 2.1.2. Alternatively, if the Commission considers that the specific case of sustainable loans or financial assets should be explicitly addressed, the content of Item 2.1.2 could be incorporated into Item 2.1.1, for example by clarifying that the sustainability criteria described under Item 2.1.1(b) also apply where the proceeds are used to acquire loans or other financial or fixed assets considered sustainable.

III. CORRECTING DRAFTING INCONSISTENCIES

A. CORRECTION OF THE REFERENCE TO ARTICLE 28K IN ARTICLE 42(2)

The reference to article 28k introduced in Article 42(2) by article 25a(19) of the delegated act project appears to be incorrect.

AMAFI's proposal

Correct this reference to ensure accurate cross-referencing within the Regulation.

B. ALIGNMENT OF ITEM 6.4.3 OF ANNEX 16B WITH ITEM 4.3.3 OF ANNEX 15A

There is potential inconsistency between Item 6.4.3 of Annex 16b and Item 4.3.3 of Annex 15a.

Item 6.4.3 of Annex 16b currently requires issuers to indicate the amount of any expenses and taxes charged to the subscriber or purchaser and adds that, where the issuer is subject to PRIIPS (*Regulation No 1286/2014*) and MiFID II (*Directive 2014/65/EU*), and to the extent that these expenses are known, those contained in the price should be included.

By contrast, Item 4.3.3 of Annex 15a has been simplified and now only requires that issuers indicate the amount of any expenses and taxes charged to the subscriber or purchaser. The additional sentence included in Item 6.4.3 therefore appears to reflect an earlier version of the text and is no longer aligned with the wording used in Annex 15a.

AMAFI's proposal

Delete the second sentence of Item 6.4.3 of Annex 16b to ensure consistency between the annexes 16b and 15a.