



ASSOCIAÇÃO DE EMPRESAS EMITENTES DE VALORES COTADOS EM MERCADO

AEM - Associação de Empresas Emitentes de Valores Cotados em Mercado

Largo do Carmo, n.º 4, 1.º Dto., 1200-092 Lisboa, Portugal

Interest Representative Register ID number: 61515936038-82

**ESMA'S TECHNICAL ADVICE ON POSSIBLE DELEGATED ACTS CONCERNING THE
PROSPECTUS DIRECTIVE AS AMENDED BY THE DIRECTIVE 2010/73/EU**

ESMA – CONSULTATION PAPER

JULY 2011

European Securities and Markets Authority
For the attn. of Verena Ross, Executive Director
103, Rue de Grenelle
75007 Paris, France

info@esma.europa.eu

15 July 2011

Dear Madam,

A.

AEM - Associação de Empresas Emitentes de Valores Cotados em Mercado, *aka* the Portuguese Issuers Association, is a not-for-profit membership organisation that represents the Portuguese exchange-listed stock corporations and other companies issuers of securities that are traded on a regulated market based or operating in Portugal.

More specifically, AEM is the voice of the issuing corporations and company groups listed on the Lisbon Stock Exchange Index PSI 20, as well as a number of other issuing companies, thus, representing the near totality of the Portuguese market capitalisation.

Among its main priorities, AEM is specially engaged in supporting the development of an adequate institutional and legal framework for the Portuguese capital market and, also, in enhancing corporate financing in Portugal and promoting a transparent and efficient environment for investors and companies.

A Board comprising 6 directors of listed companies' heads the Association; the president of AEM is Luis Palha da Silva and the Executive Director is Abel Sequeira Ferreira.

It is also important to refer that, as a way to participate and contribute, in a more effective way, to the development of a harmonised European capital market, AEM is also a member of EuropeanIssuers, the leading European association promoting the interests of companies listed on stock exchanges.

B.

AEM welcomes the opportunity to respond to this consultation and comment on ESMA's proposal for its technical advice on possible delegated acts concerning the

Prospectus Directive as amended by the Directive 2010/73/EU (the “Amending Directive”).

However, we must emphasize that, namely for smaller associations and companies, given the length and level of detail of the proposals made in the Consultation Paper, the extremely short consultation period does not allow for a specific answer to all the questions raised in the consultation paper nor to provide quantitative and statistic evidence in what regards the expected impact of the proposed changes.

Therefore, in any case, we would have to limit our comments to a principles based approach, emphasizing the essential aspects that, in our view, must be respected by ESMA when presenting its technical advice. Those include our key concerns:

- a summary should remain a summary, not become a mini prospectus;
- we need a truly proportionate disclosure regime for SMEs and Small Caps;
- the flexible use of base prospectuses must not be prevented by the final terms;
- we need a truly proportionate disclosure regime regarding rights issues;
- we are concerned by the potential exclusion of smaller companies from EU policymaking debate.

Another inconvenient consequence of this short consultation period was the impossibility to make a proper enquiry to our membership, thus, we would like to make clear that AEM’s response, although drawing attention to the common problems of the Portuguese issuers, does not intend, in any way, to prevent its associated companies from presenting their own individual responses, comments and questions; also, we will support any views that our individual members may deliver to you.

C.

In this particular case, given the above-referred reasons, AEM has decided to adopt as its answer the detailed technical response prepared by EuropeanIssuers, which you can find enclosed in this letter.

AEM has actively participated in the preparatory discussions and production of such response, which intends to draw your attention to the common concerns Issuers have, regarding the way in which ESMA understands its Mandate.

Indeed, we must emphasize that we consider that the principles set out by the European Commission in its request to ESMA, for technical advice on possible delegated acts concerning the Amending Directive, are very clear.

The Amending Directive has three main objectives: increasing efficiency in the prospectus regime, reducing administrative burdens for companies when raising capital in the European securities markets, and enhancing investor protection.

These are the principles taken up by the amended Prospectus Directive that need now to be translated into delegated acts and that ESMA must respect.

Namely, when helping the Commission to meet its goals, ESMA's technical advice must respect the right balance between the above referred principles, avoiding to go beyond what is necessary and to raise excessive administrative burdens for issuers.

We believe that at this point ESMA has not delivered its Mandate accordingly with the above-mentioned principles, specially, because we consider that ESMA's technical advice fails to achieve the aim of reducing administrative costs and burden to issuers when raising capital, as set out in the Commission's mandate.

In this context, we consider that the enclosed response, which for the most part reflects our views, notwithstanding the fact that some issues need further detailed assessment, sets out a number of reasonable solutions that may constitute a better way forward.

Yours faithfully,

Abel Sequeira Ferreira
Executive Director

Enclosure: - European Issuers' cover letter and Technical response to the consultation prepared and supported by European Issuers' members The Quoted Companies Alliance, MiddleNext, Deutsches Aktieninstitut and AEM - Associação de Empresas Emitentes de Valores Cotados em Mercado.