AMF ITALIA
ASSOCIAZIONE INTERMEDIARI
MERCATI FINANZIARI

Milan, 19 May 2025

ESMA
201-203 rue de Bercy
CS 80910
75589 Paris Cedex 12
France

Via ESMA website

Prot. n. 35/25

Re: AMF Italia contribution to ESMA "Consultation on the Guidelines on supplements which introduce new securities to a base prospectus"

AMF Italia[1] welcomes the opportunity to provide comments on the ESMA Consultation Paper in subject as better detailed here below.

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Q1: Do you agree with draft Guideline 1 proposed by ESMA and ESMA's reasoning? If not, please explain why.

We believe it would be useful for ESMA to better clarify the objectives of the Guidelines and their alternating or complementary relationship (i.e. whether it is within the issuer's power to choose to apply one or the other guideline).
We also consider it useful for ESMA to better specify the role it intends to assign to the supplement, also in relation to the mandate received from the European Commission, which has asked ESMA to understand when a supplement is to be considered to introduce a new type of security. Indeed, Guideline 1 seems to reserve the use of the supplement to the inclusion of information that is material for securities already mentioned in the prospectus and to make changes in the presence of significant new facts that may affect the base prospectus. Guideline

[1] AMF Italia – *Associazione Intermediari Mercati Finanziari* is the Italian Association of Financial Markets Intermediaries, which represents the majority of financial intermediaries acting in the Italian markets.

2, on the other hand, seems to suggest the use of the supplement as an opportunity to issue instruments which - in terms of type, risk factors and general conditions - have already been identified in the base prospectus and which the issuer has expressed a potential interest in the development within the 12 months of the validity of the base prospectus.

Q2: Do you agree with draft Guideline 2 proposed by ESMA and ESMA's reasoning? If not, please explain why.

In relation to Guideline 2, and without prejudice to our response to Q1, we believe it would be useful for ESMA to clarify what is expected in relation to the possible use of the supplement for the issuance of types of instruments referred to in the base prospectus. The issuer is not in a position to include a priori details of instruments that it may potentially issue in the 12-month period and, moreover, the inclusion in the prospectus of generic references to types of instruments could constitute an obstacle during the scrutiny and approval process of the prospectus itself: in fact, during the scrutiny, the (Italian) supervisory authority is in the habit of asking the issuer to rationalise the prospectus with regard to the types of instruments that it is not certain it will use, but a provision such as that proposed by Guideline 2 would inevitably lead the issuer to include a reference to the widest range of types of instruments that could potentially be issued during the 12-month period. Therefore, while we appreciate that the supplement may assist the issuer in the additional issuance of features related to the main instrument of the base prospectus, there is a need for coordination at the level of the local authorities in order to avoid, on the one hand, that the authorities object to the inclusion in the base prospectus of types of instruments that the issuer may then decide not to issue and, on the other hand, that the option granted by Guideline 2 would excessively burden the time required for the scrutiny and approval process and consequently lengthen the approval time (again).

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We remain available for any further information or clarification.

Gianluigi Gugliotta
Secretary General