AMF ITALIA
ASSOCIAZIONE INTERMEDIARI
MERCATI FINANZIARI

Milan, 31 December 2025

European Commission

Via EU Commission website

Prot. n. 91/25
SG/sg

Re: European Commission consultation on "Draft Delegated Regulation on EU Follow-on Prospectus content and format" – AMF Italia contribution

OVERVIEW AND POLICY POSITION

The Listing Act's introduction of a streamlined follow-on regime for seasoned issuers—those with at least 18 months' continuous trading on regulated or SME growth markets—represents a welcome step toward proportionate capital markets regulation. Our members anticipate material benefits: anticipated reduction of €50k–€150k per issuance, approval timelines compressed from six to eight weeks down to three to four weeks, and improved cross-border market access through harmonised disclosure standards.

We endorse the December 2025 draft whilst urging targeted calibrations in two areas: preventing NCA over-implementation beyond the prescribed annexes, and clarifying specific content items including risk factor presentation, trend disclosure, dividend policy treatment, and working capital assessment horizons.

CONTENT SPECIFICATIONS – KEY CLARIFICATIONS NEEDED

Working Capital Statement

Current ambiguity regarding the assessment period—with different NCAs applying inconsistent timeframes—creates unnecessary liability exposure and compliance friction. We recommend the delegated act codify a uniform 12-month horizon measured from the prospectus approval date, calculated on a post-proceeds basis. This harmonised standard would eliminate NCA divergence whilst aligning with going-concern assessment practices already embedded in financial reporting frameworks.

Trend Information vs Forward-Looking Statements

Issuers frequently conflate qualitative trend commentary with quantitative profit forecasts, leading to duplicative disclosure or speculative statements that increase liability risk. The delegated act should clarify that trend information comprises qualitative business trajectory discussion—for example, evolving demand patterns in specific geographies or easing supply chain constraints—and explicitly exclude numerical forward-looking financials unless the issuer voluntarily includes a profit forecast subject to separate reporting accountant requirements. Where no material trends exist beyond those in published periodic reports, a negative statement should suffice.

Risk Factor Architecture

To combat boilerplate disclosure that consumes page count without enhancing investor understanding, we propose codifying three mandatory categories—issuer-specific, market/industry, and securities-related—with a maximum of five risks per category. Generic, non-specific risks should be rejected during NCA scrutiny. This framework would compress typical risk sections from 10–15 pages to 5–7 pages whilst improving materiality focus.

Dividend Policy Disclosure

For PMEs reinvesting all earnings, requiring extensive explanation of non-existent dividend policies wastes disclosure space. The delegated act should mandate this section only where a formal policy exists; otherwise, a simple negative statement ("The Company has no established dividend policy") should be acceptable.

Securities Rights Description

The level of detail required for share rights varies significantly across NCAs, with some demanding near-complete reproduction of constitutional documents. We recommend requiring a concise summary of material economic and governance rights—dividend entitlement, voting structure, pre-emption provisions, transfer restrictions—with full articles of association available by incorporation by reference. For standard single-class structures, this would reduce disclosure from 3–5 pages to 1–2 pages whilst ensuring material variations receive appropriate treatment.

FORMAT STANDARDISATION AND PAGE LIMITS

The 50-page ceiling for equity follow-on prospectuses, coupled with standardised sequencing based on Annexes IV and V, delivers one-quarter to one-third lower drafting expense through template reuse, reduces NCA reformatting requests, and enhances investor comparability. To preserve these benefits, the delegated act must explicitly enumerate page count exclusions—summaries, incorporated information, complex financial histories, and significant gross change disclosures—preventing divergent NCA interpretation that would undermine the ceiling's effectiveness.

With the same objective of preserving the benefits of the page limit established by the Regulation, we would invite the Commission to provide clear and explicit guidance to national competent authorities that requests for additional information from issuers with a complex financial history or which have made a significant financial commitment, within the meaning of Article 14a(6) of Regulation (EU) 2017/1129, should be made only where strictly necessary.

PREVENTING NCA OVER-IMPLEMENTATION

Standardisation objectives risk erosion if NCAs impose jurisdiction-specific requirements beyond the prescribed annexes. We recommend a recital clarifying that NCAs may request additional information only where stricly necessary to satisfy Article 6(1) materiality standards of Regulation 2017/1129, with any such request requiring written justification referencing specific materiality concerns. Additionally, establishing accelerated scrutiny timelines for follow-on prospectuses would reinforce the regime's burden-reduction objectives.

TRANSITIONAL IMPLEMENTATION

Given the 5 March 2026 entry into force of Article 14a and simultaneous repeal of existing Article 14 proportionate schedules, coupled with anticipated delays in delegated act finalisation, we urge the Commission and ESMA to publish formal guidance permitting issuers to prepare follow-on prospectuses using the Level 1 framework supplemented by the draft Level 2 annexes currently under adoption. This guidance should confirm NCA acceptance of such prospectuses, establish a safe harbour for good-faith reliance on draft annexes pending final adoption, and specify proportionate scrutiny standards. Without such guidance, issuers face legal uncertainty, NCA divergence, potential transaction delays in Q2–Q3 2026, and disproportionate cost increases if full prospectuses become necessary during the transitional period.