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**EC Public consultation 'Review of Prospectus Directive'**

*13 May 2015*

Consultation reply of:

**VERENIGING VEB NCVB (Dutch Investors' Association)**

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## I. Introduction

*(1) Is the principle, whereby a prospectus is required whenever securities are admitted to trading on a regulated market or offered to the public, still valid? In principle, should a prospectus be necessary for:*

*- admission to trading on a regulated market Yes*
*- an offer of securities to the public? Yes*

*Should a different treatment should be granted to the two purposes (i.e. different types of prospectus for an admission to trading and an offer to the public). If yes, please give details.*

The principle is of course still valid, if not the main criterion for investor protection. But in practice, the prospectus does not serve its original purpose anymore: providing in an easily analysable and comprehensible form all information which is necessary to enable investors to make an informed assessment of the issuer and the securities offered or admitted to trading on a market. The prospectus has become a document of, in some cases, a couple of hundreds of pages filled with legalistic language which is not understandable for most, if not all, retail investors.

The summary prospectus should help these retail investors to make an investment decision by providing them with the key information relating to the securities and their issuer in a concise manner and in non-technical language. However, in practice, the summary prospectus is of little use, if not read in conjunction with the remainder of the prospectus. This is mainly because there is currently no liability attached.

The VEB therefore proposes to attach liability to the summary prospectus. The summary prospectus should provide the investor with an overview of all the material risks associated with a certain investment decision. It is the responsibility of the issuer to judge the materiality of the risks associated and to make sure that the summary prospectus provides a true and fair view. The risks should be ordered according to their degree of materiality (from high to low). The length should be limited to 10 pages.

Furthermore, the VEB believes that, ideally, the obligation to draw up a prospectus should be mandatory for all offers and admissions to trading, except for certain secondary offerings and offers exclusively to qualified investors. Instead of narrowing the scope of the Directive, the VEB supports an extension of the proportionate disclosure regime and incorporation by reference in order to alleviate administrative burdens for certain issuers and offers.

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*(2) In order to better understand the costs implied by the prospectus regime for issuers:*
*a) Please estimate the cost of producing the following prospectus*
*- equity prospectus*
*- non-equity prospectus*
*- base prospectus*
*- initial public offer (IPO) prospectus*

The VEB does not have the necessary knowledge to answer this question. Nevertheless, the VEB generally believes that enhancing investor protection cannot be rejected by invoking undesirable greater costs, increased administrative costs or petitioning to maintain extant structures in the financial markets.

*b) What is the share, in per cent, of the following in the total costs of a prospectus:*
*- Issuer's internal costs: [enter figure]%*
*- Audit costs: [enter figure]%*
*- Legal fees: [enter figure]%*
*- Competent authorities' fees: [enter figure]%*
*- Other costs (please specify which): [enter figure]%*

*What fraction of the costs indicated above would be incurred by an issuer anyway, when offering securities to the public or having them admitted to trading on a regulated market, even if there were no prospectus requirements, under both EU and national law?*

The VEB does not have the necessary knowledge to answer this question. Nevertheless, the VEB generally believes that enhancing investor protection cannot be rejected by invoking undesirable greater costs, increased administrative costs or petitioning to maintain extant structures in the financial markets.

*(3) Bearing in mind that the prospectus, once approved by the home competent authority, enables an issuer to raise financing across all EU capital markets simultaneously, are the additional costs of preparing a prospectus in conformity with EU rules and getting it approved by the competent authority are outweighed by the benefit of the passport attached to it?*

The VEB strongly believes that the advantages of having an EU prospectus regime, whereby the same disclosure standards are applied across the EU and whereby a prospectus, once approved by the home competent authority, enables an issuer to raise financing across the whole EU, clearly outweigh the costs for issuers.

## II. Issues for discussion

### A. When a prospectus is needed

*(4) The exemption thresholds in Articles 1(2)(h) and (j), 3(2)(b), (c) and (d),respectively, were initially designed to strike an appropriate balance between investor protection and alleviating the administrative burden on small issuers and small offers. Should these thresholds be adjusted again so*

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*that a larger number of offers can be carried out without a prospectus? If yes, to which levels? Please provide reasoning for your answer.*

*a) the EUR 5 000 000 threshold of Article 1(2)(h):*

No. Ideally, the threshold should be brought to zero (i.e. the exemption should be deleted).In that case, requirements on the information that must be provided can however be less stringent (i.e. proportionate) for offers with a total consideration below 5 000 000. In any case, the threshold should not be adjusted upwardly. The benefits that such an upward adjustment provides to issuers do not outweigh the negative effects for retail investors.

*b) the EUR 75 000 000 threshold of Article 1(2)(j):*

No. Ideally, the threshold should be brought to zero (i.e. the exemption should be deleted).In that case, requirements on the information that must be provided can however be less stringent (i.e.

proportionate) for offers with a total consideration below 75 000 000. In any case, the threshold should not be adjusted upwardly. The benefits that such an upward adjustment provides to issuers do not outweigh the negative effects it has on retail investors.

*c) the 150 persons threshold of Article 3(2)(b)*

No. Ideally, the threshold should be brought to zero (i.e. the exemption should be deleted). The VEB believes that every offer that involves retail investors should be accompanied by a prospectus. In this respect, it is also important that the Commission looks at how to deal with the 'retailisation' of products that were initially only sold to qualified investors. The effects of the removal of this exemption could be mitigated by making it easier for retail investors to qualify as 'qualified investor'. In any case, the VEB believes that the threshold should not be adjusted upwardly. The benefits that such an upward adjustment provides to issuers do not outweigh the negative effects it has on retail investors.

*d) the EUR 100 000 threshold of Article 3(2)(c) & (d)*

Yes, from EUR 100 000 to EUR ∞. Ideally, this exemption should be deleted. The denomination per unit does not tell us anything about the professionalism of the investor. However, requirements on the information that should be provided can be less stringent (i.e. proportionate) for offers with a denomination per unit above a certain value. In any case, the VEB believes that the threshold should not be adjusted downwardly. The benefits that such a downward adjustment provides to issuers do not outweigh the negative effects it has on retail investors.

*(5) Would more harmonisation be beneficial in areas currently left to Member States discretion, such as the flexibility given to Member States to require a prospectus for offers of securities with a total consideration below EUR 5 000 000?*

Yes, in order to move to a genuine European capital market, the VEB supports maximum harmonization when it comes to prospectus rules. This should lead to consistent and high levels of investor protection across the EU, enabling retail investors to invest abroad with confidence. If the

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exemptions mentioned above would be deleted, no discretion would be left to the Member States to decide which issuers are obliged to draw up a prospectus.

*(6) Do you see a need for including a wider range of securities in the scope of the Directive than transferable securities as defined in Article 2(1)(a)? Please state your reasons.*

Yes, the VEB believes that the Commission should look at the following non-transferable securities when analysing the appropriate range of securities: closed-end funds, structured products and embedded derivatives, money-market instruments and derivatives.

*(7) Can you identify any other area where the scope of the Directive should be revised and if so how? Could other types of offers and admissions to trading be carried out without a prospectus without reducing consumer protection?*

No, the VEB believes that a prospectus should be drawn up with each type of offer or admission to trading (except for, in some instance, secondary issuances (see Q8), and for offers exclusively to

qualified investors (see Q 4(c)). The VEB supports an extension of the proportionate disclosure regime and incorporation by reference in order to alleviate administrative burdens for certain offers/issuers

*(8) Do you agree that while an initial public offer of securities requires a full-blown prospectus, the obligation to draw up a prospectus could be mitigated or lifted for any subsequent secondary issuances of the same securities, providing relevant information updates are made available by the issuer?*

Yes, as a prospectus has already been published with the IPO, the VEB believes it is not necessary to publish a new one if the secondary offering takes place within 3 years after IPO and does not involve more than 10% of the shares that have already been issued. However, in any case, relevant information updates should be made available. And if any (positive or negative) material changes have taken place that might have an impact on the (retail) investor's investment decision or meet the standard of price-sensitive information, a new prospectus should nevertheless be published and approved ex ante.

A proportionate disclosure regime might be applied to this new prospectus and incorporation by reference should be facilitated.

*(9) How should Article 4(2)(a) be amended in order to achieve this objective ? Please state your reasons.*

No amendment. In case of secondary issuances representing more than 10% of the shares, a prospectus should be published.

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*(10) If the exemption for secondary issuances were to be made conditional to a full-blown prospectus having been approved within a certain period of time, which timeframe would be appropriate?*

The VEB believes that a three year-timeframe would be appropriate. The timeframe that is applied should be based on the average holding period. Noticing that the average holding period within the EU differs from 12 till 36 months, three years is an appropriate time frame.

*(11) Do you think that a prospectus should be required when securities are admitted to trading on an MTF? Please state your reasons.*

Yes, on all MTFs. The VEB sees no reason to make a distinction between MTFs and regular markets when it comes to the obligation to publish a prospectus. Retail investors that want to have access to MTFs should obtain the same information regarding the issuer, the offer and the securities as when they invest on regular markets. The rules should moreover be harmonized across the EU.

*(12) Were the scope of the Directive extended to the admission of securities to trading on MTFs, do you think that the proportionate disclosure regime (either amended or unamended) should apply? Please state your reasons.*

No, whether a proportionate disclosure regime applies or not should not depend on the type of market the securities are offered to the public or admitted to trading, but on the type of issuer or the type of offer.

*(13) Should future European long term investment funds (ELTIF), as well as certain European social entrepreneurship funds (EuSEF) and European venture capital funds (EuVECA) of the closed-ended type and marketed to non-professional investors, be exempted from the obligation to prepare a prospectus under the Directive, while remaining subject to the bespoke disclosure requirements under their sectorial legislation and to the PRIIPS key information document? Please state your reasoning, if necessary by drawing comparisons between the different sets of disclosure requirements which cumulate for these funds.*

No, such an exemption would affect investor/consumer protection due to the differences between the sets of disclosure requirements which cumulate to these funds. A proportionate disclosure regime could be applied and, insofar as information is equal, incorporation by reference might be used.

*(14) Is there a need to extend the scope of the exemption provided to employee shares schemes in Article 4(1)(e) to non-EU, private companies ? Please explain and provide supporting evidence.*

Don't know, it depends on whether employees of non-EU private companies can be expected to have the knowledge necessary to decide whether to invest without having the ability to obtain a prospectus. The VEB highly doubts whether this is the case in most instances, even in case of EU private companies.

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*(15) Do you consider that the system of exemptions granted to issuers of debt securities above a denomination per unit of EUR 100 000 under the Prospectus and Transparency Directives may be detrimental to liquidity in corporate bond markets? If so, what targeted changes could be made to address this without reducing investor protection?*

Yes, if the threshold is lowered, investor protection will be sacrificed as there retail investors who make investments of more than EUR 50 000 in a single transaction. For the VEB, the only option to increase liquidity and to maintain a high level of investor protection is to remove the EUR 100 000 exemption and make it mandatory to publish a prospectus for both debt securities with denomination per unit of above EUR 100 000 as well as for those below EU 100 000. Proportionate disclosure regime could be applied to the former. The VEB also believes that issuers of debt securities above a denomination per unit of EUR 100 000 should publish annual and half-yearly financial reports.

*If you have answered yes, do you think that:*
*(a) the EUR100 000 threshold should be lowered?*

No, see previous answer.

*(b) some or all of the favourable treatments granted to the above issuers should be removed?*

No, a proportionate disclosure regime should apply to issuers of debt securities with a denomination per unit of above EUR 100 000.

*(c) the EUR 100 000 threshold should be removed altogether and the current exemptions should be granted to all debt issuers, regardless of the denomination per unit of their debt securities?*

No, see justification above. No debt issuer should be exempted, regardless of the denomination per unit of their debt securities.

## B. The information a prospectus should contain

*(16) In your view, has the proportionate disclosure regime (Article 7(2)(e) and (g)) met its original purpose to improve efficiency and to take account of the size of issuers? If not, why?*

The VEB is supportive of a proportionate disclosure regime, in particular for companies with a reduced market capitalisation.

*(17) Is the proportionate disclosure regime used in practice, and if not what are the reasons? Please specify your answers according to the type of disclosure regime.*

*a) Proportionate regime for rights issues*

Don't know/no opinion

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*b) Proportionate regime for small and medium-sized enterprises and companies with reduced market capitalisation*

The proportionate disclosure regime is not widely used in practice by small and medium-sized enterprises and companies with reduced market capitalisation. It is still believed to be too burdensome for these smaller entities.

*c) Proportionate regime for issues by credit institutions referred to in Article 1(2)(j) of Directive 2003/71/EC*

Don't know/no opinion

*(18) Should the proportionate disclosure regime be modified to improve its efficiency, and how? Please specify your answers according to the type of disclosure regime.*

*b) Proportionate regime for small and medium-sized enterprises and companies with reduced market capitalisation*

See Q17b

*(19) If the proportionate disclosure regime were to be extended, to whom should it be extended?*

The proportionate disclosure regime could be extended to those offers and admissions trading that were previously exempted (see Q 4) and to all forms of secondary offers that fall within the scope of the Directive.

*(20) Should the definition of "company with reduced market capitalisation" (Article 2(1)(t)) be aligned with the definition of SME under Article 4(1)(13) of Directive 2014/65/EU by raising the capitalisation limit to EUR 200 000 000?*

Yes, as long as companies with reduced market capitalisation remain within the scope of the Directive. A proportionate disclosure regime should apply. Also, incorporation by reference should be available for companies with reduced market capitalisation.

*(21) Would you support the creation of a simplified prospectus for SMEs and companies with reduced market capitalisation admitted to trading on an SME growth market, in order to facilitate their access to capital market financing?*

Yes, while these companies should not be exempted from the obligation to publish a prospectus because of their high risk profile, the disclosure requirements can be lowered (i.e. proportionate) in order to facilitate their access to capital market financing.

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*(22) Please describe the minimum elements needed of the simplified prospectus for SMEs and companies with reduced market capitalisation admitted to trading on an SME growth market.*

An amended proportionate disclosure regime should be applied to SMEs and companies with reduced market capitalisation, regardless of whether they are offered or admitted to trading on regular markets, MTFs (including SME growth markets) or OTFs.

*(23) Should the provision of Article 11 (incorporation by reference) be recalibrated in order to achieve more flexibility? If yes, please indicate how this could be achieved (in particular, indicate which documents should be allowed to be incorporated by reference)?*

The VEB believes that incorporation by reference should be facilitated in order to lower the administrative burden for issuers that have to comply with different sets of partially overlapping disclosure requirements, for SMEs/companies with reduced market capitalisation as well as secondary offers that fall within the scope of the Directive. To ensure this does not go at the expense of investor protection, the documents that are referred to should be accessible at the same location (e.g. website, database) as the prospectus. Using references should not be allowed in revised summary prospectus.

*(24) (a) Should documents which were already published/filed under the Transparency Directive no longer need to be subject to incorporation by reference in the prospectus (i.e. neither a substantial repetition of substance nor a reference to the document would need to be included in the prospectus as it would be assumed that potential investors have anyhow access and thus knowledge of the content of these documents)? Please provide reasons.*

No, all the information that is necessary for retail investors to make informed investor decision should be easily accessible and be included or referred to, in the prospectus. One cannot assume that potential investors have anyhow access and thus knowledge of the contents of the documents that have been published under the Transparency Directive.

*(b) Do you see any other possibilities to better streamline the disclosure requirements of the Prospectus Directive and the Transparency Directive?*

Don't know/No opinion

*(25) Article 6(1) Market Abuse Directive obliges issuers of financial instruments to inform the public as soon as possible of inside information which directly concerns the said issuers; the inside information has to be made public by the issuer in a manner which enables fast access and complete, correct and timely assessment of the information by the public. Could this obligation substitute the requirement in the Prospectus Directive to publish a supplement according to Article 17 without jeopardising investor protection in order to streamline the disclosure requirements between Market Abuse Directive and Prospectus Directive?*

No, in these circumstances, a supplement to the prospectus should always be provided by the issuer and approved by the competent authority.

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*(26) Do you see any other possibility to better streamline the disclosure requirements of the Market Abuse Directive and the Prospectus Directive?*

Don't know/No opinion

*(27) Is there a need to reassess the rules regarding the summary of the prospectus? (Please provide suggestions in each of the fields you find relevant)*

a) Yes, regarding the concept of key information and its usefulness for retail investors
b) Yes, regarding the comparability of the summaries of similar securities

The summary prospectus should help retail investors to make an investment decision by providing them with the key information relating to the securities and their issuer in a concise manner and in non-technical language. However, in practice, the summary prospectus is of little use, if not read in conjunction with the remainder of the prospectus. This is mainly because there is no liability attached.

The VEB therefore proposes to attach liability to the summary prospectus. The summary prospectus should provide the investor with an overview of all the material risks associated with a certain investment decision. It is the responsibility of the issuer to judge the materiality of the risks associated and to make sure that the summary prospectus provides a true and fair view. The risks should be ordered according to their degree of materiality (from high to low). The length should be limited to 10 pages.

*(28) For those securities falling under the scope of both the packaged retail and insurance-based investment products (PRIIPS) Regulation8, how should the overlap of information required to be disclosed in the key investor document (KID) and in the prospectus summary, be addressed?*

Other: Incorporation by reference

*(29) Would you support introducing a maximum length to the prospectus? If so, how should such a limit be defined?*

No. As the Commission itself stated in the consultation document, by introducing a maximum length issuers will be tempted to put information in supplements. The VEB proposes to revise the summary prospectus. This document should, read on its own, provide the investor with an overview of all the material risks associated with a certain investment decision. The information provided and risks addressed, should be arranged by the issuer to the level of importance. The length of the revised summary prospectus should be limited to 10 pages and it should have civil liability attached.

*(30) Alternatively, are there specific sections of the prospectus which could be made subject to rules limiting excessive lengths? How should such limitations be spelled out?*

Yes, the VEB believes a length limit of ten pages should be applied to the revised summary prospectus. However, in order to prevent issuers from having to omit necessary information, the competent authority should be able, under strict circumstances, to allow for a longer summary

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prospectus. This is important as there will be liability attached to it. However, the extended summary prospectus should never exceed 20 pages.

*(31) Do you believe the liability and sanctions regimes the Directive provides for are adequate? If not, how could they be improved? Yes, No or No opinion*

*- the overall civil liability regime of Article 6:* No
*- the specific civil liability regime for prospectus summaries of Article 5(2)(d) and Article 6(2):* No (see Q27)
*- the sanctions regime of Article 25:* No

*(32) Have you identified problems relating to multi-jurisdiction (cross-border) liability with regards to the Directive? If yes, please give details.*

Don't know/no opinion

## C. How prospectuses are approved

*(33) Are you aware of material differences in the way national competent authorities assess the completeness, consistency and comprehensibility of the draft prospectuses that are submitted to them for approval? Please provide examples/evidence.*

Don't know/no opinion

*(34) Do you see a need for further streamlining of the scrutiny and approval procedures of prospectuses by NCAs? If yes, please specify in which regard.*

Yes, the VEB supports maximum harmonisation in this respect.

*(35) Should the scrutiny and approval procedure be made more transparent to the public? If yes, please indicate how this should be achieved.*

Yes, it should especially be clear to retail investors that the national competent authority does not give a judgment on the correctness of the information provided in the prospectus.

*(36) Would it be conceivable to allow marketing activities by the issuer in the period between the first submission of a draft prospectus and the approval of its final version, under the premise that no legally binding purchase or subscription would take place until the prospectus is approved? If yes, please provide details on how this could be achieved.*

No, although no legally binding purchase is yet possible, there is the danger that retail investors already make their decision on the basis of the draft prospectus and do not look at the final prospectus anymore (assuming that no changes were made). If it would be allowed, changes that have made should be communicated clearly to the investor.

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*(37) What should be the involvement of NCAs in relation to prospectuses? Should NCAs:*

a) review all prospectuses ex ante (i.e. before the offer or the admission to trading takes place)

*Please describe the possible consequences of your favoured approach, in particular in terms of market efficiency and invest protection.*

Risk-based approach can lead to supervisory gambling. Ex-post can lead to problems. What if information essential to investor decision has been omitted? The preferred option is therefore to review all prospectus ex ante.

*(38) Should the decision to admit securities to trading on a regulated market (including, where applicable, to the official listing as currently provided under the Listing Directive), be more closely aligned with the approval of the prospectus and the right to passport? Please explain your reasoning, and the benefits (if any) this could bring to issuers.*

Yes, according to the VEB, having the same authority making the decision to admit securities and doing the approval process provides benefits for both the issuer as well as investor protection. The prospectus should be part of the decision to admit securities to trading on a regular market. It would also ensure that both decisions are made by a commercially independent authority.

*(39) (a) Is the EU passporting mechanism of prospectuses functioning in an efficient way? What improvements could be made?*

The VEB proposes to put as condition for the passporting mechanism of prospectuses the obligation to sell a minimum of the offered products (for example, 20%) in the Member State where the draft prospectus is submitted, in order to ensure a minimum link between the national authority in charge of the approval and the final investor.

*(b) Could the notification procedure set out in Article 18, between NCAs of home and host Member States be simplified (e.g. limited to the issuer merely stipulating in which Member States the offer should be valid, without any involvement from NCAs), without compromising investor protection?*

No, not as long as there is not sufficient harmonization of approval and scrutiny.

*(40) Please indicate if you would support the following changes or clarifications to the base prospectus facility. Please explain your reasoning and provide supporting arguments:*
*I support, I do not support and Justify*

*a) The use of the base prospectus facility should be allowed for all types of issuers and issues and the limitations of Article 5(4)(a) and (b) should be removed* I do not support
*b) The validity of the base prospectus should be extended beyond one year* I do not support
*c) The Directive should clarify that issuers are allowed to draw up a base prospectus as separate documents (i.e. as a tripartite prospectus), in cases where a registration document has already been filed and approved by the NCA* I do not support

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*d) Assuming that a base prospectus may be drawn up as separate documents (i.e. as a tripartite prospectus), it should be possible for its components to be approved by different NCAs*

I do not support

*e) The base prospectus facility should remain*

I do not support

*f) Other (please specify)*

*(41) How is the "tripartite regime" (Articles 5 (3) and 12) used in practice and how could it be improved to offer more flexibility to issuers?*

The VEB believes that the tripartite regime should be abolished. The prospectus should be a single document of which the different components are approved simultaneously and by the same competent authority. Alternatively, all relevant information and documents should be published in a centralised manner on the issuers company website.

*(42) Should the dual regime for the determination of the home Member State for non-equity securities featured in Article 2(1)(m)(ii) be amended? If so, how?*

The freedom to choose the home Member State for non-equity securities with a denomination per unit above EUR 1 000 (and for certain non-equity hybrid securities) should be revoked. The home Member State should always be prescribed by law.

*(43) Should the options to publish a prospectus in a printed form and by insertion in a newspaper be suppressed (deletion of Article 14(2)(a) and (b), while retaining Article 14(7), i.e. a paper version could still be obtained upon request and free of charge)?*

Yes, this would be an option. The possibility to request a paper version, on the basis of Article 14(7), should of course remain.

*(44) Should a single, integrated EU filing system for all prospectuses produced in the EU be created? Please give your views on the main benefits (added value for issuers and investors) and drawbacks (costs)?*

Yes. This could increase accessibility, also comparability. However, it should be complementary to the obligation of issuers to publish the prospectus on, for example, their own website. It should furthermore be clear to the investor that the authority managing the platform (e.g. ESMA) does not guarantee the correctness of the information provided in the prospectus.

*(45) What should be the essential features of such a filing system to ensure its success?*

Accessibility, comparability and transparency.

*(46) Would you support the creation of an equivalence regime in the Union for third country prospectus regimes? Please describe on which essential principles it should be based.*

No, the VEB does not believe an equivalence regime is appropriate to ensure investor protection.

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*(47) Assuming the prospectus regime of a third country is declared equivalent to the EU regime, how should a prospectus prepared by a third country issuer in accordance with its legislation be handled by the competent authority of the Home Member State defined in Article 2(1)(m)(iii)?*

b) Such a prospectus should be approved by the Home Member State under Article 13 to ensure high level of investor protection.

## III. Final questions

*(48) Is there a need for the following terms to be (better) defined, and if so, how:*

*a) "offer of securities to the public"*

There is a need to eliminate uncertainties about what constitutes a public offer. Through the revision of Prospectus Directive, companies should have greater reassurance with regard to what does not constitute an offer, so that certain information can be made publicly available without triggering disclosure obligations (e.g. research).

*b) "primary market" and "secondary market"?*
Don't know/no opinion

*(49) Are there other areas or concepts in the Directive that would benefit from further clarification?*

Don't know/no opinion

*50) Can you identify any modification to the Directive, apart from those addressed above, which could add flexibility to the prospectus framework and facilitate the raising of equity or debt by companies on capital markets, whilst maintaining effective investor protection? Please explain your reasoning and provide supporting arguments.*

The summary prospectus should help retail investors to make an investment decision by providing them with the key information relating to the securities and their issuer in a concise manner and in non-technical language. However, in practice, the summary prospectus is of little use, if not read in conjunction with the remainder of the prospectus. This is mainly because there is no liability attached.

The VEB therefore proposes to attach liability to the summary prospectus. The summary prospectus should provide the investor with an overview of all the material risks associated with a certain investment decision. It is the responsibility of the issuer to judge the materiality of the risks associated and to make sure that the summary prospectus provides a true and fair view. The risks should be ordered according to their degree of materiality (from high to low). The length should be limited to 10 pages.

Furthermore, the VEB believes that, ideally, the obligation to draw up a prospectus should be mandatory for all offers and admissions to trading, except for certain secondary offerings and offers exclusively to qualified investors. Instead of narrowing the scope of the Directive, the VEB supports

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an extension of the proportionate disclosure regime and incorporation by reference in order to alleviate administrative burdens for certain issuers and offers.

*(51) Can you identify any incoherence in the current Directive's provisions which may cause the prospectus framework to insufficiently protect investors? Please explain your reasoning and provide supporting arguments.*

Don't know/no opinion

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