

Quoted Companies Alliance proposals regarding SME Growth Markets – MiFID II Commission Delegated Acts (Art. 33 MiFID II)

- Ensure that SME Growth Market rules and requirements are **fit for purpose and allow for local specificities and market practices to be taken into consideration**;
- Ensure that SME Growth Market rules also allow companies that choose to do so to meet **pan-European standards in order to access new investors across Member States**;
- Consider the ongoing **revision of the Prospectus Directive in the context of SME Growth Markets**;
- Allow the application of **local financial reporting rules as a minimum and allow the choice to use IFRS for SMEs or full IFRS**; and
- **Ensure an appropriate application of MAR for SME Growth Markets.**

Justification**1. The importance of SME Growth Markets**

The introduction of SME Growth Markets is essential to ensuring that SMEs can access capital markets in the EU. The MiFID I framework classifies existing growth markets for smaller companies (exchange regulated markets, such as AIM and ISDX in the UK and Alternext in France) as multilateral trading facilities ('MTFs'). This classification does not distinguish the primary market function that these markets serve from the purely secondary market functions played by almost all other MTFs. We agree that the primary market function deserves to be recognised and treated differently in order to facilitate access to capital by SMEs across Europe and support the European Commission's and Parliament's action in this area by the creation of the SME Growth Market category in MiFID II.

2. Specifying the requirements for SME Growth Markets**- SME Growth Markets eligibility criteria and criteria for initial and on-going admission to trading of financial instruments of issuers on SME Growth Markets**

SME Growth Markets should be able to operate through the application of a number of different models and support ESMA's recognition of this in their Technical Advice on MiFID II. We believe that the choice of model and the specific rules associated with it should be left to the discretion of the market operator, with the National Competent Authorities (NCAs) assessing whether the proposed operating model and its rules are applying effectively the high-level principles governing SME Growth Markets as outlined in MiFID II and ESMA's Technical Advice on MiFID II.

Harmonisation in this area must take into account the need for SME Growth Markets to retain flexibility as to the specific market model and eligibility criteria. It is important to highlight that harmonisation should not mean homogenisation: no one model will work for all European markets, as they all have different investment cultures. A level of flexibility must be retained at a Member State and market operator level to account for different local and market practices. This would not hinder the creation of pan-European standards, common to all SME Growth Markets across the European Union, where companies choose to access new finance outside their local market.

In that sense, we urge the Commission to only define minimum levels (e.g. free float, number of investors, initial market capitalisation) or minimum conditions (e.g. similar to those set in the Listing Directive) for companies that wish to access investment from investors beyond their Member State. This could be managed through clear disclosure in admission documents and on company websites.

This would foster the breadth and diversity of market practices and the existence of a wide range of SME Growth Markets that have already been developed whilst allowing for a pan-European market concept to develop. We believe that local markets should be encouraged to continue to flourish, not be conditioned by over-imposed regulation. Indeed, ESMA emphasised that “the investor protection objectives of the SME Growth Market regime could be met through the application of a number of different operating models”. SME Growth Markets are not regulated markets and to regulate them as such would remove the flexibility needed for them to provide a platform for SMEs to grow and create employment throughout the EU. Developing a pan-European market concept within a local market framework would incentivise companies and investors to look beyond their Member State boundaries.

The above would be in line with the goal of SME Growth Markets, as set out in the level 1 text: facilitating access to capital for SMEs and the development of specialist markets that aim to cater for the needs of SME issuers, while bearing in mind the lessening of administrative burdens for issuers.¹

- The content of an admission document

We believe that MiFID II should not specify detailed disclosures or categories of disclosure regarding the admission documents to SME Growth Markets, but that instead this should be the responsibility of the market operator. This should be done taking into consideration local factors and the right level of flexibility and investor protection.

We believe that the SME Growth Markets should be able to adopt the approach they believe to be the most adequate regarding admission documents, where a Prospectus is not required. These markets should not have prescribed detailed disclosure requirements, as this would diminish the flexibility afforded by SME Growth Markets. We note that ESMA’s Technical Advice recognises this.

Furthermore, we believe that SME Growth Markets should benefit from a specifically designed SME Growth Markets Prospectus regime, which is applicable in cases where companies choose to carry out a public offer on a SME Growth Market. We outline this approach in our Proposals to amend the Prospectus Directive – February 2015.²

- Responsibility for an admission document

We do not consider it appropriate to require that an admission document is formally ‘approved’ by a NCA. The ‘approval’ and/or pre-vetting process by a NCA could result in many companies having to incur additional costs and delays in accessing finance and is not generally relevant to investors. The success of AIM in the UK is an example to support this argument and demonstrates that no

¹ (Recital 133 and art. 33(8))

² www.theqca.com/PD2015

significant detriment to investors is caused by the absence of the pre-vetting of an admission document.

Future Level 2 regulation should require an SME-GM to make arrangements for an appropriate review of a draft admission document. However, the Commission should not specify prescriptive requirements as to how the process should be carried out or what steps the process should include. This should be left to the discretion of the market operator. The NCA should not be involved in this review of the draft admission document.

- Appropriate on-going periodic financial reporting

We agree with ESMA regarding not imposing one or more acceptable financial reporting standard. Local investors tend to invest in local SMEs. We believe that, as a minimum, local financial reporting rules should be followed; these are the rules well known and understood by local investors. Market operators should have the possibility of requiring adherence to additional requirements, as recommended in ESMA's Technical Advice. We believe that it is important to allow choice for both companies and investors, as they consider what is appropriate for their stage of development. One of the largest costs associated with a company listing on a public equity market is the conversion from local accounting standards to full IFRS.

As companies grow, in order to allow for a pan-European growth market to develop, issuers could have the choice to use IFRS for SMEs or full IFRS. This would allow for cross-border access to equity (e.g. passporting) and facilitated investment. It is key that different types of firms can have different access points, and can gradually change within the ecosystem. As companies access Member States other than their own, the need for comparability increases.

- Compliance with MAR

We support the view that SME Growth Markets comply with the same rules as established in the Market Abuse Regulation (MAR), except where MAR grants additional exemptions to SME Growth Markets' issuers. A proportionate application of MAR for SME Growth Markets should be ensured, especially in the case of insider lists.

- Storage and public dissemination of regulatory information concerning the issuers on the market

We believe that the storage of information should be published on the website of the issuer, as this is current market practice throughout Member States. We would support the further creation of an EU-wide central database, where all the information could be stored and easily accessible. We consider three years to be adequate to provide investors with a sufficiently long history of published regulatory information. However, a five year period (where available) will not create an undue burden on SME Growth Market issuers, as suggested by ESMA in its Technical Advice.

- Systems and controls aimed at preventing and detecting market abuse

We agree that the MiFID II framework should not impose any additional requirements to those presented in MAR. We welcome ESMA's consideration in its Technical Advice for keeping an adequate level of consistency.