Svensk Värdepappersmarknad
Swedish Securities Markets Association

Stockholm, 8 May, 2025

The Swedish Securities Markets Association (SSMA)[1]

Response to

ESMA´s Consultation Paper

on Draft Guidelines on supplements which introduce new securities to a base prospectus (CP).[2]

1. General comments

SSMA welcomes the opportunity to respond to this CP. While we believe that—at least from a Swedish perspective—a significant portion of the approach presented in the Guidelines is already implemented and applied by issuers in practice, we nonetheless support all efforts aimed at simplification. In particular, the possibility of introducing new structures, subject to certain conditions, through a supplement is a particularly welcome development.

2. Questions

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

Yes, we agree.

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

Yes, we agree.

However, the "issue" primarily arises when a new reality or circumstance is introduced during the validity period of the base prospectus. While issuers are encouraged to assess their reasonable expectations, there is insufficient guidance on how to handle the need of a "new product" within the validity period. Thus, ESMA's recommendation for issuers to consider all types of securities that they reasonably expect to issue throughout the life of a base prospectus does not fully resolve the "issue".

[1] The SSMA is a trade association representing the interests of investment firms active on the Swedish securities market, hereinafter referred to as "we" or "SSMA".
[2] ESMA32-1953674026-5808. The definitions, if any, used in this response have the same meaning as in the CP.

Nevertheless, we agree that the contractual framework plays a crucial role in determining whether a proposed change qualifies as a new type of security.

Q3: Do you believe draft Guideline 2 will lead to longer and less comprehensible prospectuses? If yes, please explain why and describe how you would solve this issue.

No.

We believe the approach presented in Guideline 2 is already implemented and applied by issuers in practice.

Q4: The explanatory text under draft Guideline 2 identifies 'green bonds' and 'sustainability-linked notes' as distinct securities for the purpose of these Guidelines. Do you agree with that, or do you think they are the same as 'regular' bonds or 'regular' structured products? To the extent you consider 'green bonds' and 'sustainability-linked notes' to be the same as 'regular' bonds or 'regular' structured products, please explain why. In particular, make clear why, for example, a currency-linked note, or index-linked note, should be treated differently to a 'sustainability-linked note' for the purpose of these Guidelines. Please also consider factors such as the oncoming Annex [21] in your response.

We believe it is important to distinguish between (i) changes that solely affects the use of proceeds and the associated risk factors and (ii) changes that affects the *structure* of the terms and conditions of the instruments. For example, the introduction of a green component in a bond typically pertains only to the use of proceeds and may necessitate updates to the risk factors, while the inclusion of a sustainability-linked feature represents a structural modification of the terms and conditions and, as such, should not be implemented by means of a supplement.

Q5: Is there another way to approach the subject of these Guidelines in your opinion? If yes, please explain what it is and provide arguments to support your suggested approach. Please also provide examples to illustrate the issue(s) you are solving and how your proposed approach facilitates that end.

A potentially more constructive—albeit challenging—approach would be to define *what* the distinguishing criterion/criteria for a new type of security is/are. In our view, further elaboration on such criterion/criteria within the Guidelines would be beneficial and provide greater clarity for market participants.

Q6: Can you provide an estimation of the costs/benefits of these proposed Guidelines?

Although it is difficult to estimate, we do not anticipate any significant changes compared to the current situation.

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