

Our position

EU Listing Act



AmCham EU speaks for American companies committed to Europe on trade, investment and competitiveness issues. It aims to ensure a growth-orientated business and investment climate in Europe. AmCham EU facilitates the resolution of transatlantic issues that impact business and plays a role in creating better understanding of EU and US positions on business matters. Aggregate US investment in Europe totalled more than €3.4 trillion in 2021, directly supports more than 4.9 million jobs in Europe, and generates billions of euros annually in income, trade and research and development.

Executive summary

The European Commission has proposed the Listing Act, which intends to bring further clarity into listing rules for EU markets. Despite many positive aspects of the proposal, policymakers should consider the following areas for refinement: third-country prospectuses, civil liability regime, multiple voting right shares structures/dual class share structures, exemption from the obligation to publish a full prospectus and prospectus requirements.

Introduction

EU public markets play a key role in allowing firms to access market finance. Investor protection and transparency are critical and listing rules that are clear and concise are a necessity for the smooth functioning of the European listings environment. In this context, the publication of the Listings Act proposal is a welcome initiative.

As American firms operating in the EU, we would like to see consistent application of requirements across all Member States' listings regimes. An even application of rules could remove burdensome requirements that do not contribute to investor protection and consistency would also provide a level playing field for innovative companies entering the EU market.

Our recommendations

Members of the American Chamber of Commerce to the EU are working on detailed recommendations but, in the meantime, we would like to draw the policymakers' attention to the following areas, which can enable an interoperable, competitive environment for listings:

- **Third-country prospectuses:** Policymakers should apply a flexible approach to third country prospectuses. Stringent equivalency requirements could end up dissuading issuers from listing on European markets.
- **Civil liability regime:** Given the cross-border nature of listed markets, policymakers should establish clear positions on the use of forward-looking statements. Modification of liability regimes for forward looking statements should be changed so that issuers are liable only if they were aware of inaccurate statements or mislead investors.
- **Multiple voting right shares structures/dual class share structures:** Policymakers should examine how other jurisdictions get innovative, high-growth companies listed on their exchanges. For example, the principle of multiple voting right share structures are attractive to many start-ups. Flexibility should be the principle leading multiple class share structures, while also safeguarding governance standards.
- **Exemption from the obligation to publish a full prospectus:** The proposal to increase the threshold for publication of a prospectus to 40% of the issuer's issued share capital is concerning. This creates significant liability concerns for issuers and syndicate banks and would only be viable if accompanied by a new regulatory system of ongoing disclosure in the form of shelf registration documents of the type used in the United States.
- **Prospectus requirements:** Policymakers should reconsider imposition of any limits on the length of a prospectus, as well as other prescriptive requirements on content, format, sustainability information and mandatory incorporation by reference. Ultimately, the length and contents of a prospectus need to be determined on a case-by-case basis to allow full and appropriate disclosure to investors so that they can make a fully informed investment decision in the context of each issuer's unique circumstances.