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The Retail Investment Strategy

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One of the main objectives of the Capital Markets Union (“**CMU**”) action plan published in 2020 was to develop and promote retail investment in the EU and to make the EU an even safer place for individuals to save and invest long term. Europe has one of the highest individual savings rates in the world, yet retail investor participation in capital markets is low relative to other economies. Increased retail participation in capital markets is viewed as essential in order to fund the green and digital transitions.

The European Commission (“**Commission**”) has now adopted its long-awaited Retail Investment Package that aims to empower retail investors to make investment decisions that are aligned with their needs and preferences, ensuring that they are treated fairly and duly protected. The **amending directive** included in the package amends the UCITS Directive and the Alternative Investment Funds Managers Directive (“**AIFMD**”) and includes provisions relating to the transparency of costs, value for money assessments and a requirement for management companies to ensure that investors are not charged undue costs. This follows an **opinion** issued by ESMA to the Commission calling for legislative change in relation to undue costs. The other measures proposed in the omnibus directive include:

- new rules aimed at protecting retail investors from misleading marketing communications and practices which emphasise benefits but downplay the potential risks;
- rules prohibiting inducements in execution-only cases and tackling bias in the advice process by strengthening the best interest principle and introducing new criteria for “acting in the best interest of the client” as well as improving transparency; and
- further measures on financial literacy, investor categorisation, enhanced suitability and appropriateness assessments, measures to increase professional qualifications of financial advisors and measures to enhance supervisory enforcement.

The Commission also published a **proposal** to amend the regulation on packaged retail and insurance based investment products – the PRIIPs Regulation – as part of the Retail Investment Package. The proposal makes targeted amendments to the PRIIPs Regulation aiming to improve information for investors and their ability to make well-informed investment decisions. The proposal aims to adapt disclosures to the digital environment. It will introduce a new section in the PRIIPs key information document titled “Product at a glance” to summarise and highlight information on product type, costs, level of risk, recommended holding period and presence of insurance benefit, as well as a dedicated section focused on sustainability.

The Commission's proposals are open for feedback for a period of eight weeks (ie, until 20 July 2023). The Commission will summarise the feedback and present it to the European Parliament and Council of the EU with the aim of feeding into the legislative debate.

Comment

Inducements have been a hot topic in the EU for some time, and it would seem that the focus on inducements in the lead-up to the publication of the Retail Investment Strategy may have eclipsed the original purpose of the strategy of promoting retail participation in capital markets. The value for money concept has been introduced by the Commission as an alternative to a full inducements ban for non-independent advice, but there will be many challenges arising from this proposal. The European Securities and Markets Authority ("**ESMA**") has been tasked with developing the benchmarks against which financial products must measure their costs and performance. It remains to be seen how many benchmarks will be provided, how long it will take to develop them and how it will be determined which benchmark is relevant to or aligns with which product.



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