

## Press Release

### ESMA calls for legislative amendments to prevent undue costs in funds

The European Securities and Markets Authority (ESMA), the EU's financial markets regulator and supervisor, has published an Opinion to the European Commission with suggested clarifications of the legislative provisions under the UCITS Directive and the AIFMD relating to the notion of “undue costs”.

Verena Ross, Chair of ESMA, said:

*“If we want to enhance retail investors’ participation in capital markets, we should ensure that the expected return of investment products isn’t impacted by undue costs. That investors get value for their money is even more important in the current market situation, with heightened inflation and tightening of financial conditions.*”

*With its Opinion to the European Commission on undue costs in funds, ESMA calls for legislative amendments to the UCITS Directive and the AIFMD. By further harmonising the notion of undue costs among Member States, the proposal aims at preventing investors from being charged with undue costs and ensuring appropriate compensation for investors.”*

### Enhancing investors protection

This initiative was prompted by one of the findings of the ESMA 2021 Common Supervisory Action on costs and fees, which showed divergent market practices as to what industry reported as “due” or “undue” costs in funds. Apart from the high investor protection relevance of this matter, ESMA deems that a lack of supervisory convergence on this topic leaves room for regulatory arbitrage and risks hampering competition in the EU market. Furthermore, it may lead to different levels of investor protection depending on where a fund or fund manager is domiciled.

ESMA’s proposal is to take as a basis the supervisory expectations enshrined in the 2020 supervisory briefing on the supervision of costs and ground these expectations into clearer legal requirements. This would allow NCAs to build on the supervisory efforts already deployed to ensure an even higher level of investor protection thanks to a stronger legal hook in the UCITS and AIFMD frameworks.

Check our [dedicated page](#) for more information.

## Next Steps

The European Commission is working on policy proposals in the context of the Retail Investment Strategy (RIS) to empower retail investors and enhance their participation in the capital markets. ESMA welcomes the Commission's initiative and is confident that the present Opinion can be taken into consideration in the upcoming Commission's legislative proposals on the RIS.

## Notes for editors

1. [ESMA34-45-1747 Opinion on undue costs of UCITS and AIFs](#)
2. In January 2021, ESMA launched a Common Supervisory Action (CSA) with NCAs on the supervision of costs and fees of UCITS across the EU/EEA. The CSA's aim was to assess, foster and enforce the compliance of supervised entities with key cost-related provisions in the UCITS framework, in particular the obligation of not charging investors with undue costs.
3. The outcome of the CSA on costs and fees showed divergent market practices as to what industry reported as "due" or "undue" costs and it evidenced that further legislative specification of the notion of "undue costs" would provide more convergence and a stronger legal basis for NCAs to take supervisory and enforcement actions against the relevant market participants in many cases.
4. ESMA is the European Union's EU's financial markets regulator and supervisor. Its mission is to enhance investor protection and promote stable and orderly financial markets.
5. It achieves this objective through three strategic priorities:
  - a. fostering effective markets and financial stability,
  - b. strengthening supervision of EU financial markets,
  - c. enhancing protection of retail investors,and two thematic drivers:
  - d. enabling sustainable finance; and
  - e. facilitating technological innovation and effective use of data.
6. ESMA achieves its mission within the European System of Financial Supervision (ESFS) through active cooperation with the European Banking Authority (EBA), the European Insurance and Occupational Pensions Authority (EIOPA), the European Systemic Risk Board, and with national authorities with competencies in securities markets (NCAs).

## Further information:



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