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Mairead McGuinness
Commissioner in charge of Financial
services, Financial stability, and Capital
Markets Union

Maria Luís Albuquerque
Designated Commissioner in charge of
Financial services and the savings and the
Investment Union
European Commission

Aurore Lalucq
Chair of the Committee on Economic and
Monetary Affairs
European Parliament

Mihály Varga
President-in-Office of the Economic
and Financial Affairs (ECOFIN) Council

Ref: Retail Investment Strategy

Dear Mmes. McGuinness, Albuquerque, and Lalucq, dear Mr. Varga,

We are writing to you regarding the Retail Investment Strategy (“RIS”) proposal, which rightly aims to mobilise capital held by European citizens into investment and pension products offering value for money, and thereby enhance consumers’ financial health and contribute to deepening European capital markets.

The RIS negotiations take place during political discussions aiming to improve the effectiveness of the EU capital markets. We therefore believe it is worthwhile to explore in more detail, whether and how the proposals made in this context could be integrated into the RIS already at this stage. We note that the European Council conclusions¹ on CMU urged the Commission and Council to design and implement “*a simple and effective cross-border investment/savings product for retail investors*”, and to develop “*pensions and long-term savings products*”. Recommendations to this end have also been made by the European securities regulators and supervisors in the ESMA Position Paper on “Building more effective and attractive capital markets in the EU”², while EIOPA included extensive

¹ <https://www.consilium.europa.eu/media/m5jlwe0p/euco-conclusions-20240417-18-en.pdf>

² [https://www.esma.europa.eu/sites/default/files/2024-05/ESMA24-450544452-2130 Position paper Building more effective and attractive capital markets in the EU.pdf](https://www.esma.europa.eu/sites/default/files/2024-05/ESMA24-450544452-2130%20Position%20paper%20Building%20more%20effective%20and%20attractive%20capital%20markets%20in%20the%20EU.pdf)

considerations of this kind in its technical advice to the European Commission on certain aspects relating to retail investor protection³ and more recently in its “EIOPA Staff Paper on the future Pan-European Pension Product (PEPP)”⁴.

We suggest the European Commission now considers complementing the RIS text with proposals reflecting these ideas to prevent multiple revisions of the retail investment framework in a short period of time, which would result in inappropriately increased implementation efforts and costs.

Beyond the more fundamental issue outlined above, in this letter we would also like to share our observations about the amendments to the RIS text proposed by the European Parliament and the Council in their respective positions.

The objective of the European Commission’s RIS proposal was to put “*consumers’ interests at the centre of retail investing*”⁵. As consumer protection lies at the very heart of ESMA’s and EIOPA’s missions, we fully subscribe to this intention and agree that benefit for consumers should be the underlying rationale for changes of the policy framework under RIS. As per the Commission’s proposal, “*retail investors have difficulties accessing relevant, comparable, and easily understandable investment product information to help them make informed investment choices*”⁶. Therefore, we very much support the European Parliament’s proposal introducing the online comparison tool⁷ for packaged retail and insurance-based investment products (PRIIPs) as a means to provide an unbiased source of information on all relevant product features – including performance, guarantees, costs and fees charged at every step of the investment process.

ESMA and EIOPA would also like to express continued support to the Commission’s proposal setting out the Value for money framework. It foresees the creation of European benchmarks as a tool contributing to the objectivity of the product pricing process and helping supervisors to prevent that products not offering value for money are marketed to retail investors. We are concerned that the effectiveness of this proposal would be significantly undermined by the additional layers of complexity and weakened provisions introduced by the Co-legislators namely: (i) national benchmarks; (ii) companies’ peer grouping analysis with the peer group defined by the companies and/ or with the help of a new ESMA and EIOPA database; as well as (iii) the modified nature of the benchmarks, intended to serve the sole purpose of identifying outliers in the market, without sufficiently spelling out supervisory powers in this context. The overall cost-benefit of the proposal would no longer be straightforward should such changes be adopted in the final compromise text.

We note that on the insurance side, EIOPA already adopted and published a methodology to define benchmarks for the sole purpose of identifying outliers. In fact, the current Product Oversight and Governance requirements already enshrine value for money tools and powers as much as the current RIS proposal. Hence, the envisaged amendments would not constitute significant policy change in this area. All in all, we fear that in conjunction with the limited changes proposed to the

³ [Microsoft Word - EIOPA-BoS-22-244 Final Report Technical Advice Retail Investor Protection \(europa.eu\)](#)

⁴ [EIOPA Staff Paper on the future Pan-European Pension Product \(PEPP\) - EIOPA \(europa.eu\)](#)

⁵ https://finance.ec.europa.eu/publications/retail-investment-strategy_en

⁶ <https://eur-lex.europa.eu/legal-content/EN/TXT/?uri=CELEX:52023PC0279>

⁷ Recommendations to this end were also put forward by the European Court of Auditors in its [Special Report](#) on Investment Funds and by the 2020 European Parliament [Own Initiative Report](#) on CMU.

inducements regime and the suggested extensions for the reviews of the various aspects of the framework, consumers are set to wait for several years for noticeable changes to their investing experience.

Behind the idea of European benchmarks, there is our strong belief that consumers around Europe shall pay, by and large, similar prices for products offering similar returns and services, and this is why we believe that it is important to create benchmarks for comparable products. We do not believe that the introduction of national benchmarks would constitute an efficient solution aligned with the principles of the single market. Therefore, we would kindly suggest to re-think the amendments put forward by the European Parliament in this context. While the Council's position provides for some safeguards on national benchmarks – only allowed under IDD, thus leading to disparity of treatment of different retail investments – it does not sufficiently spell out supervisory powers in cases, where methodologies for national benchmarks are neither justified nor comparable.

We would equally caution against the creation of a dual system, whereby firms' peer grouping requirements would co-exist with European supervisory benchmarks. We expect such proposals to result in a duplicative exercise raising costs for all parties – supervisors, product manufacturers and distributors. They all would need to keep up with developments around each of the respective tools, whose interplay is not very clear and could lead to supervisory challenges, if the two approaches yield diverging evaluations on the provision of value for money. Our concern is further compounded by the fact that only a limited ("last resort" as per EP position) or no rectification possibility (as per Council position) is envisaged for supervisors, which would seriously limit the possibilities to intervene where products would be found not to offer value for money.

Under the Council's position, ESMA and EIOPA would additionally be expected to build a non-public database for the purposes of the peer grouping exercise. Its establishment – as a tool only for a certain group of market participants – would not constitute an efficient use of ESMA's and EIOPA's resources. While many practical questions raised by this proposal still require answers – including as to what type of data and products could be considered useful and meaningful for consumers, and how to properly design such a tool – overall, it appears unlikely we could empower consumers without providing meaningful public data for informed investment decisions.

Furthermore, we would also like to underline the importance of ensuring an adequate and efficient supervisory framework allowing for timely and effective supervision of cross-border business. We are concerned about potential additional hurdles introduced in the Council's position, whereby the request by at least two Member States would be needed to establish supervisory collaboration platforms. We note that under the Solvency II Directive, EIOPA can initiate a collaboration platform, which would only have a *raison d'être* to exist, if there would be issues raised – by one, two or more Member States. The draft provisions under the Council text, if adopted, would risk further limiting the efficient and effective protection of consumers.

Finally, ESMA and EIOPA would like to highlight the resource implications of the RIS proposal for both the public and private sector. In addition to the increased administrative burden that the RIS proposal seems to be creating, we would also like to point out the substantial number of tasks and responsibilities for ESMA and EIOPA, which arise from the amended draft texts. Therefore, we call

on the European Commission and the Co-legislators to duly evaluate the impact these new elements would have in terms of human, operational and consumer testing costs. It should be acknowledged here that the PRIIPs proposal did not contain any legislative financial statement, while both ESMA and EIOPA believe the financial statement attached to the Omnibus Directive significantly underestimated the resource needs of both ESAs. Our services are available to provide more realistic estimates.

ESMA and EIOPA stand ready to provide steadfast support to the European Commission and the Co-legislators to make sure that European consumers' interests are fully reflected in the final outcome of the legislative deliberations.

Yours sincerely,

[signed]

Verena Ross

ESMA Chair

[signed]

Petra Hielkema

EIOPA Chair

CC.:

- John Berrigan, Director General, DG Financial Stability, Financial Services and Capital Markets Union
- MEP Stéphanie Yon-Courtin, RIS Rapporteur, European Parliament
- Claudia Lindemann, Head of Unit, ECON, European Parliament; and
- Thérèse Blanchet, Secretary General, Council of the European Union.