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**France Invest's contribution to ESMA's discussion paper
on MiFID II investor protection topics linked to digitalisation**

France Invest would like to thank ESMA for the opportunity to contribute to its work on MiFID II investor protection topics linked to digitalisation. We acknowledge that the digitalisation of financial services offers both new opportunities, in particular regarding the distribution of financial products to retail investors, and new challenges, notably in terms of protection of these investors.

In this context, we would like to share the following general comments with ESMA:

- A **smooth articulation** should be ensured between ESMA's reflections and existing regulations as well as legislative and regulatory work already undertaken in relation to investor protection topics, in particular legislative proposals on retail investment (e.g. proposals to review the MIFID and the PRIIPs Regulation). Not taking these into account would generate a risk of making the applicable obligations redundant, lead to rule stacking and increase complexity and costs.
 - For instance, rules are already in place to ensure that retail investors are provided with fair, clear and not misleading information. Also, the PRIIPs KID, which is likely to be soon provided in a digital and layered format, contains key information on investment products.
 - Rules on the marketing of financial instruments and on investment advice, as well as on marketing engagement, are already included in existing pieces of European legislation.
 - The new regulatory framework on markets in crypto assets (MiCA) sets out rules on influencers in relation to crypto assets.
- This being said, we would welcome **concrete examples** of how these rules should be implemented with respect to digital tools. To this extent, we would welcome a Q&A including examples of concrete use cases. The diagrammes and good/bad practice proposed by ESMA in its consultation paper are useful, as the digital space is new and guidance in this respect helpful.
- A **clear distinction should be made between retail and professional investors**, bringing the focus on retail investors and leaving professional investors out of scope, as they do not require the same protection as retail investors. For instance, the "vital" pieces of information may be different for retail and professional investors.

- We suggest renaming “**vital**” **information**. Such information is pivotal/essential/key to making investment decisions, but it cannot be described as “vital” for investors. In addition, we call for an exhaustive list of items. Last, we believe that such information is already included in the PIIIPs KID, and that a reference could be made to this document in order to ensure consistency and make any updates smoother and less costly.
- Last, we understand that marketing practices targeted to **vulnerable persons** should be treated specifically, in particular in the context of digital tools that these persons might not be proficient in using. However, this group should be better delineated.

Contact

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About France Invest

Established nearly 40 years ago, France Invest brings together venture capital, private equity, infrastructure and private debt teams based in France, as well as the associated professions which support them. Its membership currently counts roughly 440 management firms and 190 associate members.

Private equity supports unlisted companies for a fixed period of time and provides them with the equity capital, through the acquisition of minority or majority stakes in their capital, needed to finance growth and transformation projects. It supports the creation of start-ups (venture capital), participates in the growth and transformation of many regional SMEs and mid-caps (growth capital) and contributes to the transfer of companies (replacement capital).

France Invest’s members represent one of the main growth drivers for the French and European economy and support a significant portion of employment in France and Europe. In 2022, French private equity and infrastructure players invested €36 billion in 2,800 companies and infrastructure projects. They raised €42 billion from investors, half of which abroad (just under one third at EU level excluding France), which will be invested over the next 5 years⁸. In addition to that, in 2022, private debt players (structures financing companies and infrastructure projects) invested €19 billion in 449 transactions and raised €12 billion that will finance new transactions in the coming years⁹. European companies, in particular start-ups and SMEs, are the main recipients of our members’ investments. Over the 2016–2021 period, over 280 000 jobs were created in companies backed by French venture capital and private equity.

In particular, during the pandemic, the venture capital and private equity industry has demonstrated its adaptability, supporting existing portfolio companies as and when needed, while continuing to invest in new businesses that require capital and operational expertise to grow.