

Brussels, 23 May 2022

## **IOSCO RETAIL MARKET CONDUCT TASK FORCE CONSULTATION REPORT ON RETAIL INVESTMENT TRENDS (CR03/2022)**

**Q1: In their risk analysis, should regulators specifically consider/target specific demographic profiles/groups for additional or enhanced investor protection measures? If so, should greater attention be focused on younger age groups or older age groups? Is there a tipping point in behaviors beyond which regulators should become concerned?**

We believe that regulators should apply the same measures across types of investors (i.e., retail and professional clients), rather than introducing different treatments among retail investors. Further to that, we consider it would be valuable for IOSCO to investigate how current investor protection rules (such as unclear or misleading risk warnings) might inadvertently deter specific demographic groups (e.g., younger and female retail investors) from taking steps to plan for the future, thus contradicting financial inclusion goals.

**Q2: Does the consultation report capture accurately the important retail trends and the reasons for increased retail trading? Are there any missing concerns or issues and other potential risk magnifiers? What may be the current and potential long-term implications of increased retail participation in markets in your view?**

In our view, the report provides a comprehensive picture of the retail market trends and risk magnifiers. We particularly share concerns involving the role of “influencers” on social media that give out savings and investment related advice and recommendations online. While social media are obviously a primary source of information and communication for hundreds of millions of people – especially youth – and can as such play a key role in educating and democratising investments with wide retail audience, this may also lead to a growing segment of de facto unregulated investment advisers, operating without adequate disclosure level and supervision. This development highlights flaws in the current systems vis-à-vis regulated financial advice that should be addressed by IOSCO in its upcoming work. It is also essential to update investment advice rules to make them fit for purpose for the digital age and encourage greater retail investor participation in markets, especially given the risks posed by growing inflation, as the IOSCO report accurately points out.

**Q3: What may be the potential implications of self-directed trading and gamification from a retail risk and conduct perspective? Should high risk aspects of these activities be regulated or prohibited, for example, certain risky gamification techniques?**

We believe that more engaging forms of user experience, such as gamification techniques, should be better developed to mitigate hazards and promote a consumer-centric approach. If well-designed, such techniques have the potential to improve retail access to financial products and act as a catalyst for attracting more retail investors to invest in safer products such as funds.

**Q4: How should regulators consider whether to monitor crypto-asset trading by retail investors? Are there ways that the apparent data gaps with regard to retail investor crypto-asset trading could be filled or other protections for retail investors or ways in which regulators could begin to monitor crypto-asset trading? Are different approaches likely to be more or less effective in jurisdictions with different regulatory, statistical and other governmental and private sector approaches to data gathering?**

N/A

**Q5: How should regulators approach these trends (e.g., both trading for crypto-assets or brokerages using hidden revenue raising mechanisms) and when should they seek to intervene?**

It is of paramount importance that the same level of investor protection applies to all distribution channels, social media groups, retail trading platforms and third parties. For this reason, we argue that some legal responsibility should be placed on social media and online social trading platforms. Our recommendations include requiring to alert users about unregulated these financial advisers, adding disclosures to clarify how they are remunerated in order to explain potential conflicts of interest and to limit biased advice, and ultimately requiring such individuals to fall under the same regulatory framework as providing financial advice.

**Q6: Should regulators proactively monitor social media and online statements for retail investor protection and if so, when and how? Should social media be subject to additional regulatory obligations regarding securities trading and/or crypto-asset trading? How could such monitoring be implemented, and obligations enforced proportionate to the harm/potential harm? Are there any legal (e.g., data protection) or technical obstacles? What sort of risk assessment should regulators do to determine where to allocate their resources?**

N/A

**Q7: Are the main fraud types covered correctly (e.g., crypto-asset scams, boiler room scams, clone investment firms, and misleading information and promotional material)? What are the fraud patterns that cause/have potential to cause most retail investor harm? Are there other types of frauds or scams that regulators should consider?**

With frauds on social media on the rise, there is an increasing risk that unregulated advisers, such as "financial influencers", can induce ordinary investors to invest in financial instruments without offering adequate investor protections. Platforms, on the other hand, are not always explicitly taken responsible for any mis-selling or failure to publish warnings.

For this reason, we believe that unregulated individuals and entities – such as the “influencers” – should be included in the scope of current legislations, to ensure a level playing field vis-à-vis regulated advisers. When recommending specific financial products, for example, advisers should be required to disclose their sources and amounts of remuneration; at the same time, platforms should be brought into a regulatory perimeter and required to warn their users about the risk of capital loss.

**Q8: How has COVID-19 impacted retail conduct and frauds? How should regulators best respond to fraud and misconduct in the current environment, also in consideration of the impact of COVID-19 on retail market conduct?**

N/A

**Q9: Does the Consultation Report capture well the existing cross-border challenges? Are there any missing concerns or issues that are not highlighted? Are there any other novel ways of addressing cross-border challenges affecting retail investors? As an international body, what could be IOSCO’s role in addressing the cross-border challenges highlighted in this consultation report?**

We appreciate the Consultation Report’s efforts to capture the difficulties emerging from the retail investor landscape, and agree that many of these challenges have an ever increasing cross-border component which can make supervision and enforcement more complex.

In terms of missing concerns, the proliferation of new, insufficiently aligned sustainability rules for financial products and services is and will be a challenge for firms operating cross border. Last, we feel that financial markets authorities are not adequately equipped and financed for the additional monitoring and enforcement, when it comes to the supervision of social platforms that have an impact on retail trading behaviour.

**Q10: What may be the concerns or issues that regulators should ask for disclosure of (at both firm and product level), keeping in mind the balance between quantity of disclosure and the ability of retail investors to absorb such disclosure? Should markets continue to seek to put in place special arrangements that could encourage companies during stressed market events to provide disclosures and updates that help retail investors better evaluate current and expected impacts of such events? If so, what may be the practical options to achieve this, including who should provide this information? Are there specific technological measures or non-technological measures (e.g., changing the timing, presentation of the information) you would suggest to enhance the ability of retail investors to process the disclosure?**

Most retail investors are currently confronted with a large amount of technical, lengthy, and sometimes contradicting disclosures. We see this as a point of confusion and a major obstacle to investing, especially for retail investors. We also want to emphasize that, before adding new disclosures for regulated advisers on regulated products, regulators should prioritise addressing a growing segment of unregulated advice on social media platforms.

Generally speaking, digital disclosures can provide a more tailored experience and enable well-informed investment decisions while avoiding information overkill.

The layering of information (and the use of hyperlinks) can help in finding a balance between disclosing key information and reducing retail investors’ information overload, while at the same time allowing for more details, if required by the investor. As regards the format and layout, we are certain that a clear

structure helps investors to understand the information (e.g., graphics/charts/narratives). Disclosure rules must be adapted to fit the existing format constraints of social media (e.g., size issues in social media channels or problems integrating long-winded disclaimers into videos and banners posted on social media or websites).

**Q11: Where product intervention powers exist, what factors should regulators consider determining when it should be used and at what stage to ensure suitability and to mitigate investor harm? For example, should regulators monitor leverage levels in retail trading and/or seek the power to limit leverage? If so, is it possible to describe the kind of situation in which such powers could justifiably be used?**

We appreciate that the use of product governance and product intervention powers is already well established, with such powers held by two-thirds of jurisdictions. We advocate for product intervention powers to exist for all IOSCO national financial markets authorities in order to allow for the most equitable treatment possible for all retail investors worldwide. In particular, the use of product intervention powers is critically valuable given the growing phenomenon of retail investors being over-indebted to invest in complex and risky products, exposing themselves to borrowing leverage risk.

Moreover, the example of leverage might not be the most appropriate one, while the most critical indicator in terms of risk for retail investors : e.g. for warrants, which are widely disseminated to retail investors in many countries, their buyers, in spite of having capped in advance the maximum loss they can bear, very frequently are not able to understand how their pricing is set and can be surprised by a sudden disappearance of any value for their warrants when arriving at their term (due to pricing models, which embed a “time value” which rapidly disappears at the term of the option – leading the overall final value of their warrants to zero). It just illustrates that retail investors may suffer from non-leveraged complex products. This is probably an area where intervention for regulators should regard leverage by retail investors under the form of borrowing leverage. In particular, in many jurisdictions we see the development of over-indebtedness of retail investors, especially younger people, to invest in less “traditional” and riskier products, such as crypto-currencies, which are attractive by their returns during a given period. We therefore suggest securities regulators and banking supervisors to liaise on this.

**Q12: Are the developments in retail investor behavior sufficiently significant and persistent to justify reviews by regulators of their current approaches to retail investor protection? If so, is that true globally or only in some markets? If some, what are the characteristics of the markets for which that is most true?**

They are, indeed. We notably call attention to the rapid and global spread of misleading information by unregulated financial influencers, who wield tremendous weight, particularly among younger individuals seeking to invest at the risk of over-indebtedness.

**Q13: Are the above regulatory tools appropriate, proportionate, and effective? Are there other regulatory tools regulators might consider? What new technologies may help regulators as they continue to address misconduct and fraud (including online/via social media)?**

In our view, national securities regulators that are IOSCO members should be better funded and equipped to expand their monitoring and enforcement on social media and platforms, as well as attain more product intervention powers.

**Q14: Since the date of the IOSCO survey exercise in August 2021, have there been any other measurable changes in retail investor trends that should be taken into consideration?**

No other significant changes.



## **ABOUT EFAMA**

EFAMA, the voice of the European investment management industry, represents 27 member associations, 59 corporate members and 25 associate members. At end Q4 2021, total net assets of European investment funds reached EUR 21.9 trillion. These assets were managed by more than 35,000 UCITS (Undertakings for Collective Investments in Transferable Securities) and more than 30,000 AIFs (Alternative Investment Funds). At the end of Q3 2021, assets managed by European asset managers as investment funds and discretionary mandates amounted to an estimated EUR 31.3 trillion.

More information is available at [www.efama.org](http://www.efama.org)

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