

Brussels, 28 August 2023

EC "HAVE YOUR SAY" CONSULTATION ON THE EU STRATEGY FOR RETAIL INVESTORS

EFAMA welcomes the publication of the RIS and commends several positive aspects, including digital-friendly disclosures, comparable rules for MiFID/IDD products, and efforts to simplify access to the "professional investor" status and tackle financial influencers. Nonetheless, we have substantial concerns about certain sweeping proposals, and warn that their combined impact has not been thoroughly explored.

1. Pan-EU, quantitative “value for money” benchmarks that neglect that value is a subjective and holistic proposition to different investors;

These benchmarks run the risk of imposing de facto price caps, qualifying as price intervention and contravening Art. 101 of the "Treaty on the Functioning of the EU". This is also acknowledged by the recent RIS expert study commissioned by [ECON](#) (Jun 2023).

Additionally, the top-down, pan-EU benchmarks would disregard differences across national retail markets, stripping national regulators of their discretion.

Its repercussions are also alarming in terms of innovation and competition. Consequences include (a) potential price convergence at the capped level, which could lead to cost increases in some Member States; (b) a dramatic reduction in product offerings, deterring manufacturers – especially smaller ones and new entrants – from developing new products; and (c) possible outflows of investments in non-EU products especially by sophisticated investors, to accommodate investment needs.

2. An ambiguous “client’s best interest test” that, alongside the benchmarks, entails price intervention, effectively mandating which products have to be offered to investors

The proposed test, disproportionately focused on costs, may compel clients to prioritise the "cheapest" product over the ones offering greater value. We find that such an outcome to be contrary to the client's best interest (which is not exclusively based on cost considerations).

We also stress that the active management style of a fund should not be viewed as an "additional feature", but as a fund's fundamental attribute catering to the unique needs of specific retail clients.

3. The suggested execution-only (“XO”) commission ban appears to be exceptionally extensive, applying even where no conflict of interest exists at all, to the point that it would essentially act as a complete ban in some situations.

Two real-life scenarios demonstrate the negative impact:

(i) *In-person scenario*: Many retail clients in full-service banks make use of a combination of both XO and advisory services. With such a ban, they would be forced to give up one or the other services (e.g., should they wish to invest through advice, and later on invest in the same product on their own, or vice versa). Concretely, the first example would mean that the client is forced to sell all their holdings bought under advisory services (triggering tax implications) and renounce any advisory service going forward, to switch to XO exclusively.

(ii) *Digital scenario*: Today, retail investors can currently access execution services from various providers (through platforms or otherwise) free of charge. This business model allows investors to freely choose one or more providers - since charges apply solely based on their actual investments - and is mainly rendered sustainable by brokerage fees, which fund managers pay to compensate for platform costs. These fees do not imply any conflict of interest, as clients are not induced to buy any particular product and, on the contrary, select freely from the shelves.

Banning such commissions, which do not even constitute an "inducement", risks undermining the viability of retail digital distribution in the EU. This could lead to potential oligopolies with few platforms able to "cherry pick" the few wealthy clients who are willing to pay upfront fees.

We look forward to engaging on these points and the wider RIS package.



ABOUT EFAMA

EFAMA is the voice of the European investment management industry, which manages EUR 28.5 trillion of assets on behalf of its clients in Europe and around the world. We advocate for a regulatory environment that supports our industry's crucial role in steering capital towards investments for a sustainable future and providing long-term value for investors.

Besides fostering a Capital Markets Union, consumer empowerment and sustainable finance in Europe, we also support open and well-functioning global capital markets and engage with international standard setters and relevant third-country authorities. EFAMA is a primary source of industry statistical data and issues regular publications, including Market Insights and the EFAMA Fact Book. More information is available at www.efama.org

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