

EPFSF Briefing Paper on

“The Retail Investment Strategy Package: what impact for people and investment in Europe’s economy?”

Introduction

On 24 May 2023, the European Commission (EC) unveiled its Retail Investment Strategy (RIS) package. Launched as a centrepiece of the 2020 Capital Markets Union (CMU) Action Plan, the proposed reform spans a wide range of changes to the current EU investor protection framework and aims to foster greater retail participation in EU capital markets. This is seen as a necessity to ensure that European citizens can fully benefit from the single market while additional flow of private, long-term investment is channelled towards the financing of sustainable economic growth in the EU.

The EC notes that the level of retail participation in EU capital markets remains low compared to other advanced economies (e.g., 72% of EU consumers are not investing in any financial product according to the Kantar study on “Disclosure, inducements, and suitability rules for retail investors” of 2022). Notably, while average saving levels are high, the EC observes that many individuals in the EU refrain from entering capital markets even at a time of higher inflation.

The EPFSF policy debate will focus on the pivotal regulatory changes introduced by the RIS proposal, delving into their implications for the investment, pension and protection gap in the EU. The discussion will touch on key issues such as the RIS proposals on value for money, conflicts of interest and “best interest” test, transparency, suitability and appropriateness, and financial literacy.

The proposal

The RIS proposes far-reaching regulatory changes through its Omnibus Directive touching on: (i) investment services, as governed by the Markets in Financial Instruments Directive (MiFID II) (Directive 2014/65/EU); (ii) insurance distribution, which is regulated by the Insurance Distribution Directive (IDD) (Directive 2016/97); (iii) certain consumer disclosures outlined in the Solvency II Directive (Directive 2009/138/EC); (iv) the harmonization of laws, regulations, and administrative provisions concerning undertakings for collective investment in transferable securities (UCITS), as addressed in the UCITS Directive (Directive 2009/65/EC); and (v) the domain of alternative investment fund managers (AIFM), covered by the AIFM Directive (Directive 2011/61/EU).

Furthermore, the package also encompasses a proposal for amending the Packaged Retail and Insurance-based Investment Products Regulation (PRIIPs) concerning Key Information Documents (KID) to be provided to retail investors (Regulation 1286/2014).

The RIS addresses several key areas:

- **Value for Money:** With a view to ensuring that investment products and insurance-based investment products purchased by retail clients bring the best value for money, the RIS proposes the deployment of quantitative EU-wide benchmarks to be developed and maintained by ESMA and EIOPA for the purpose of product pricing, approval and governance by manufacturers and distributors, who will be called to justify relevant deviations. The design, implementation and review of these benchmarks are delegated to L2.
- **Conflict of Interests:** Although the EC reviewed its original plan to fully prohibit commissions in the distribution of investment products and insurance-based investment products due to potential disruption to the market, the RIS proposal introduces multiple bans on commissions. These bans cover commissions in relation to products sold without advice, meaning i) products sold with an appropriateness test, ii) products sold on an execution-only basis, and iii) reception and transmission of orders (RTO) on behalf of retail clients. A ban on inducements for sales based on independent advice is also introduced in IDD and a ban on inducements for portfolio management services applies in MiFID. Moreover, a strict “best interest” test is introduced as a pre-requisite to the payment of inducements for non-independent advised sales in both IDD and MiFID.
- **Transparency:** The RIS aims to improve transparency by providing more user-friendly and digital-accessible information for retail investors. It also introduces new warnings and additional disclosures.
- **Suitability and Appropriateness:** The RIS proposes to obtain and assess more extensive information from consumers to complete the sales process. The proposals also introduce a potential disparity between advisory models, allowing for a “light” suitability regime optional for independent advisors only.
- **Financial Literacy:** The RIS introduces a new requirement for Member States to promote financial education.

Questions for discussion

1. Will RIS make it easier for consumers to invest?
2. Are the multiple bans on inducements a good way to increase retail investment?
3. Is the proposed “best interest” test really in the best interest of consumers?
4. What will be the impact of value for money benchmarks in the market?
5. Does the RIS help address the complexity and volume of information for consumers?
6. What is the role of financial literacy? How can member states find ways to promote it?