Position paper

Reduce bureaucracy now!
Retail Investment Strategy needs to be radically simplified or withdrawn completely!

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Revise RIS proposals to eliminate bureaucracy or withdraw them

It is the right approach that the new European Commission places competitiveness at the heart of its economic agenda. In this context, it is very positive that European legislators also aim to tackle the issues of reducing bureaucracy and preventing additional regulatory burdens. The German ifo Institute recently calculated that, in Germany alone, 146 billion euros in economic output are lost each year to excessive bureaucracy.[1]

Generally, it is easier to avoid new bureaucracy than to eliminate existing bureaucracy. The recently proposed EU Omnibus package on simplifying the sustainable finance regulation illustrates how legislation with many regulatory requirements has to be adjusted retrospectively in order not to endanger the overarching objectives of the EU. This scenario must be avoided for the Retail Investment Strategy (RIS).

These important considerations must be taken up urgently in the current trilogue negotiations on the RIS. Too much bureaucracy in the securities business deters clients from investing in the capital markets. This conflicts with the original intention of both the RIS and the recently published communication for a Savings and Investment Union (SIU) to encourage retail investors to invest in the European capital markets. After all, one objective of the SIU is to offer retail clients easier access to the capital markets in order to foster economic growth and promote the competitiveness of the European Union.

In contrast, the current RIS ideas run counter to the objective of unburdening the economy by reducing bureaucracy. In its original proposal of the RIS from May 2023, the former EU Commission had laid down a massive expansion of bureaucratic requirements and did not develop any proposals to encourage clients to invest in the European capital markets. In the meantime, with a view to its "simplification agenda" in the SIU strategy, the actual EU Commission has stated that it will not hesitate to withdraw the RIS if the trilogue negotiations do not meet these objectives. We welcome that the Commission has recognized that the RIS must be radically simplified in this context or – if no meaningful simplifications can be achieved – should be withdrawn completely.[2]

Should the joint legislators decide to finalise the RIS, we strongly suggest using the trilogue to considerably simplify the RIS. We have listed a few targeted amendments below.

[1] Cf. press release from the ifo Institute dated 14 November 2024: https://www.ifo.de/en/press-release/2024-11-14/bureaucracy-germany-costs-146-billion-euros-year-lost-economic-output.

[2] Cf. Commission unveils savings and investments union strategy to enhance financial opportunities for EU citizens and businesses - European Commission, p. 6.

1. Reject bans on inducements and not introduce inducement test (proposal by the EU Parliament)

We welcome the decision of the EU Parliament and Council to reject (partial) inducement bans. However, the Council's proposed inducement test does not lead to a reduction in bureaucracy. It adds ten(!) additional criteria to the existing requirement of a "quality enhancement test". Meeting the requirements of quality enhancement alone represents a considerable burden for institutions and offers no additional value to clients.

We therefore call for the requirements for inducements not to be made unnecessarily complicated. The new inducement test should be deleted. The EU Parliament has also proposed this.

2. Remove Value for Money requirements – avoid a new "bureaucratic monster"

The Value for Money approach proposed by the European Commission is a textbook example of how to create additional bureaucracy. Cost benchmarks, in particular, have a deep impact on the market and pose the risk of "price regulation".

An appropriate comparison of products requires numerous benchmarks in order to prevent misleading comparisons. Experts estimate that around 200,000 benchmarks would be required to adequately reflect the diversity of securities available. For Germany alone, these databases would need to record around two million PRIIPs products available there. On top of which, there are further benchmarks for individual services provided by the distributors. To implement this, huge databases would have to be set up. This enormous bureaucratic burden is neither necessary nor proportionate.

We are therefore in favour of getting rid of the proposed Value for Money regime altogether since the amount of effort involved is disproportionate to the corresponding benefits achieved. In addition, before implementing any relevant requirements, a study on their effects in practice should be carried out.

3. Avoid 'best interest test´

The planned 'best interest test´ would require additional checking steps in the investment advice process and would therefore add considerable regulatory bureaucracy without providing any tangible additional value. The obligation to act in the best interests of the client is already laid down as a core principle in MiFID. The proposals for the 'best interest test´ disregard the fact that there are already comprehensive mechanisms in place to protect the interests of clients.

Current disclosure requirements on the range and types of financial instruments according to Article 52(2) and (3) of Delegated Regulation (EU) 2017/565, the necessity of an equivalence test in accordance with Article 54(9) and the cost-benefit analysis prior to recommending a switch in accordance with Article 54(11) of the same Delegated Regulation already ensure that client interests remain paramount.

Introducing the 'best interest test´ poses the risk that the burden will be disproportionately high on small and medium-sized investment firms. This could lead to them no longer being able to offer their full range of consulting services due to the increased fixed costs from the introduction of the test. This potential decline in the range of offers conflicts with the objectives of the SIU and RIS, which are to give retail investors easier access to the capital markets.

The 'best interest test' should therefore not be introduced.

4. Don't patronise self-directed investors – treat them as responsible investors (EU Parliament proposal on appropriateness assessment)

The European Commission's plan to massively tighten up the rules for non-advised services largely penalises experienced clients that acquire financial instruments independently. It is already critical that regulatory requirements unnecessarily delay the placement of orders.[3]

According to plans proposed by the Commission and Council, in future, institutions should not only use the appropriateness assessment for non-advised services to determine the clients' knowledge and experience, but also to determine their ability to bear losses and their risk tolerance. This would effectively turn the non-advisory service into a light version of investment advice. This is not in the interests of clients who want to make their own investment decisions independently and without advice. In addition, providers would have to significantly expand their processes for those making non-advised transactions, resulting in unnecessary costs.

In order to prevent these undesirable developments, the EU Parliament's proposal should be supported, which avoids additional assessments and respects the freedom of choice of responsible investors.

[3] Study by Dr. Stephan Paul, Ruhr University Bochum: MiFID II/MiFIR/PRIIPs Regulation Impact Study: Effectiveness and Efficiency of New Regulations in the Context of Investor and Consumer Protection, A qualitative/empirical analysis, p. 20: *"The more experienced the client, the more they felt bothered or annoyed."*

5. Standardising the content of client assessment prevents competition (Council proposal)

The intensive competition for clients among investment firms is based on individual investment processes and bespoke solutions. The RIS proposed amendments to MiFID provide for clients to receive on request, a report on information collected for the purpose of the suitability or appropriateness assessment, both in investment advice and non-advised business. This is to be prepared in a standardised format. According to the proposals by the Commission and the EU Parliament, ESMA, in a level 2 legislative act, should define not only the format but also the content of this report. This goes far beyond the actual duty of the investment firms. Such a standardisation of content would bring competition for clients to a standstill because it avoids constant improvements of the bank-specific customer journey.

Investment firms optimise their processes with the specific goal of creating the best possible client experience. At the same time, they strive to limit the flood of information from existing regulatory requirements. A mandatory standardisation of the content would impact all areas of the investment process – from product classification to client assessment and documentation. For this reason, the Council's proposal to remove standardisation should be followed.

6. Better information instead of increased information overload (change to current proposals for the trilogue)

The legislator could make an important contribution to 'de-bureaucratising' the securities business by reducing the information overload. Representative studies[4] indicate that a mass of information distorts our view of the essentials:[5] In a survey conducted in 2019, more than three quarters (77.3%) of the securities clients surveyed stated that the mass of information did not help them better understand the content. Even worse, 62.3% of clients stated that they were overwhelmed by the amount of information provided.

Nevertheless, the RIS proposal of the European Commission expands the information requirements significantly. We strongly oppose these additional information requirements. Instead, superfluous information should be deleted, for example information on the cost of sales.

The focus of the trilogue negotiations should be to target improvements in investor information. The key questions here are: Which information is truly necessary for investors to make well-

[4] Study by Dr. Stephan Paul, Ruhr University Bochum: MiFID II/MiFIR/PRIIPs Regulation Impact Study: Effectiveness and Efficiency of New Regulations in the Context of Investor and Consumer Protection, A qualitative/empirical analysis, p. 15.

[5] See also, e.g. ESMA: Final Report on the European Commission mandate on certain aspects relating to retail investor protection (29 April 2022 | ESMA35-42-1227), p. 6 and 7: *"The findings observed were that, though many investors were in favour of the new obligations, more than half of them admitted that they did not make use of the additional information."*

informed decisions? How can this information be improved? In any case, additional bureaucracy must be avoided.

The following aspects, in particular, have to be corrected:

- The alleviations of the MiFID Quick Fix for professional clients and eligible counterparties must not be reversed
- Annual cost reporting should not be expanded to the extent proposed, such as through detailed disclosures on taxes and annual net returns or a fixed publication requirement
- Standardising terms and calculation methods for level 2 cost information is not appropriate
- Cost information should not be subdivided into different product groups and/or over different time periods
- The definition of marketing communication should not be too broad in order to avoid unnecessary subsequent obligations
- The proposed requirements for risk warnings should not be implemented to this extent

7. Ensure implementation deadlines are feasible in practice (EU Parliament proposal)

Realistic implementation deadlines are crucial for an efficient and legally certain implementation of new requirements. In the past, level 1 requirements on the applicability of new legal acts had to be postponed multiple times because the corresponding level 2 regulations were not yet available. This happened, for example, with the introduction of MiFID II and PRIIPs, which both had to be postponed by a year. Such delays lead to unnecessary legal uncertainty and drive up costs for providers and therefore ultimately for clients as project lead times are needlessly prolonged.

There is still a risk of renewed delays: On 3 March 2025, ESMA published a comprehensive list of level 2 and level 3 measures (ESMA22-50751485-1598) which could be deprioritised or postponed, leading to precisely such delays. In addition, the EU Commission's proposal for the Omnibus directive on the Taxonomy, CSRD and CSDDD also provides for a postponement of the individual application deadlines ('Stop-the-clock' mechanism).

In order to avoid this problem with RIS, the EU Parliament proposal should be followed: The implementation deadline should only begin once the final level 2 requirements have been published. Only then can investment firms work on a reliable foundation and efficiently plan necessary IT adjustments without generating needless costs.