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European Commission Green Paper on Retail Financial Services

[29541]

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TO: EQUITY MARKETS ADVISORY COMMITTEE No. 28-15
FIXED-INCOME ADVISORY COMMITTEE No. 36-15
ICI GLOBAL CAPITAL MARKETS UNION TASK FORCE
ICI GLOBAL REGULATED FUNDS COMMITTEE No. 74-15
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ICI GLOBAL TRADING & MARKETS COMMITTEE No. 61-15
INTERNATIONAL COMMITTEE No. 60-15
INTERNATIONAL OPERATIONS ADVISORY COMMITTEE No. 31-15 RE: EUROPEAN
COMMISSION GREEN PAPER ON RETAIL FINANCIAL SERVICES

On 10 December 2015, the European Commission (“Commission”) published a Green Paper on Retail Financial Services (“Green Paper”). [\[1\]](#) The Green Paper forms part of the Commission’s Capital Markets Union (CMU) Action Plan, [\[2\]](#) and complements other initiatives including the Commission’s Digital Single Market Strategy [\[3\]](#) and its Single Market Strategy. [\[4\]](#) The Green Paper addresses a range of retail financial services sectors. This memo summarises the elements of the Green Paper that are relevant to regulated funds and asset managers. The Commission is seeking comments on the Green Paper by 18 March 2016.

Overview

The Commission’s stated objective for the Green Paper is to “comment on how the European market for retail financial services ... can be further opened up, bring better results for consumers and firms, whilst maintaining an adequate level of consumer and investor protection.” [\[5\]](#) The Green Paper covers various aspects of the EU market for insurance, loans, payments, current and savings accounts and other retail investments. The key themes of the Green Paper are: increasing cross-border selling, purchasing and portability of products; taking account of digitalisation; and building consumer trust and confidence.

The Commission intends to use the contributions that it receives to the Green Paper, along with input provided to other initiatives such as the Call for Evidence on the EU regulatory framework for financial services [\[6\]](#), to publish an Action Plan on Retail Financial Services in Summer 2016.

Aspects of the Green Paper of relevance to regulated funds and asset managers

The Green Paper is organised into three sections through which the Commission: (i) sets out its objectives for the European market for retail financial services; (ii) describes the current state of the Single Market; and (iii) proposes actions to deliver better products, more choice and greater opportunities for consumers and businesses. Aspects of each section of relevance to regulated fund and asset managers are described below.

Creating a true European market for retail financial services

In Section 1 of the Green Paper, the Commission expresses concern that “Europe-wide markets in retail financial services do not really exist at present” and that “only a small minority of retail financial services purchases take place across borders”. To address these issues, the Commission discusses several broad concepts including:

- i. the role of digitalisation in developing new business models and services through technology; and
- ii. the importance of information on the function, price and comparability of products in building consumer confidence and trust.

The Commission wants to identify and remove barriers that consumers and firms face in making full use of the Single Market, with the objective of facilitating “easier” cross-border offering and purchase of retail financial services, and enabling consumers to port products when they move from one Member State to another (e.g. to study, work or retire).

The Commission lists the previous EU action that has been taken in the area of retail financial services to address some of these issues, including increased transparency requirements and consumer protection rules for investment products. Furthermore, the Commission notes the complementary role of its Digital Single Market (DSM) strategy, the CMU initiative, and the Single Market Strategy, in supporting the development of the retail financial services market in Europe.

Current state of the retail financial services market

In Section 2 of the Green Paper, the Commission identifies several characteristics of the current EU market that it considers result in market fragmentation and insufficient competition. These characteristics include:

- i. limited cross-border activity;
- ii. price and choice differentials; and
- iii. insufficient competition and minimal consumer switching.

To address these issues, the Commission notes the need to remove “unnecessary and unjustified barriers for new entrants to the market” and to remove barriers to the provision of products cross-border. Furthermore, the Commission draws reference to the

empowerment in the revised Markets in Financial Instruments Directive (MiFID II) [7] for ESMA to develop cross-selling guidelines in co-operation with the other European Supervisory Authorities. [8] In this regard, the Commission considers that consumers should be informed if they are free to purchase each product in a package separately and should have clear information on the costs. The Commission indicates that it will continue to monitor whether further action is needed in this area.

Changing landscape of the retail financial sector in view of digitalisation

The Commission discusses the impact of digitalisation on the retail financial sector, including the role of new players and new techniques in a digital market, and of new financial and payment products. The Commission consider that, in principle, “technological advances offer the opportunity to smooth the process of making some cross-border transactions [,] expand access to more effective information and advice for consumers, improve comparability of products and increase switching behaviour”. Furthermore, the Commission identifies that digitalisation should foster cross-border activity, without requiring firms to establish themselves in other Member States. In this regard, several references in the Green Paper are of relevance to regulated funds and asset managers including:

- i. the role of financial technology companies in integrating distribution channels for products and providing services which are faster, more responsive and more tailored;
- ii. the use of distributed ledgers, such as Blockchain, to reshape internal processes with improved standardisation, automation and economies of scale;
- iii. the appropriate use of “big data” by firms to gather information on potential target customers; and
- iv. the challenges of providing appropriate pre-contractual information to customers through new distribution channels (e.g. the provision of mandatory disclosure via mobile devices)

The Commission underscores its support for “the growth of innovative, consumer-friendly technologies”, but notes the associated challenges for regulators, consumers and businesses in relation to cyber-security and data protection.

Better products, more choice and greater opportunities for consumers and businesses

In Section 3 of the Green Paper, the Commission discusses the obstacles to cross-border trade in retail financial services. Specifically, it identifies the following two main groups of root causes, affecting both suppliers and consumers, which it considers act together to reduce choice and competition and keep the European market fragmented:

- consumers do not know about or do not have enough confidence in offers from other Member States and if they do, they have trouble accessing them; and
- suppliers do not offer products to consumers in other Member States because, even in a time of digitalisation, fragmented markets create excessive operational and compliance costs.

The Commission raises a number of general questions concerning the cross-border provision and supply of financial services, including (i) barriers for firms [\[9\]](#) and consumers [\[10\]](#); (ii) competition, choice and price [\[11\]](#); (iii) the role [\[12\]](#) and risks [\[13\]](#) of digitalisation; and (iv) the quality of regulatory enforcement of EU retail financial services legislation. [\[14\]](#)

Helping consumers to buy financial products cross-border

The Commission asserts that when buying financial products, including for the purpose of saving money for the future, consumers should be able to:

- i. know what is available elsewhere in the EU;
- ii. get competitively-priced products suited to their needs; and
- iii. be confident that their products are safe and suitable and will act in the way they intend.

The Commission discusses the role of financial intermediaries in building consumer awareness of financial products and raises the question as to what more can be done to facilitate cross-border distribution of products through intermediary channels. [\[15\]](#)

Encouraging comparability and consumer understanding through improved disclosure

The Commission cites the UCITS Directive [\[16\]](#), MiFID II and PRIIPs Regulation [\[17\]](#) as recent initiatives designed to ensure effective, transparency and comparable disclosure for investors. [\[18\]](#) Building on these initiatives and under the auspices of the CMU Action Plan, the ESAs will examine the transparency of long-term retail and pension products, including their actual net performance and fees.

The Commission considers that digitalisation and the emergence of new products and digital channels provide an opportunity to re-examine how firms' communications with their customers can be improved. In this regard, the Commission raises the question as to whether further EU-level action is needed to improve the transparency and comparability of financial products (particularly by means of digital solutions) to strengthen consumer trust. [\[19\]](#)

Creating new market opportunities for suppliers

The Commission expresses concern that the “speed of digitalisation means that some competitive, consumer-friendly developments may not be possible or may be hindered by legislative or other arrangements which were not drafted with them in mind”. [\[20\]](#) In this regard, the Commission cites feedback from firms that has indicated that the Know Your Customer (KYC) requirements of anti-money laundering legislation limit their ability to open and maintain business relationships with customers at a distance. The Commission notes that this has a particular impact on savings and investment products, and raises questions as to whether further action is needed in this area. [\[21\]](#)

Compliance with differing regulatory requirements in host Member States

The Commission discusses the role of autonomous or more closely harmonised EU-wide regimes in increasing the choice of product for consumers, while decreasing costs for business and ensuring that consumers are adequately protected. In this regard, it cites the

UCITS Directive as a current successful example of an EU-wide regime.

The Commission briefly discusses the merits of an “opt-in regime”, whereby a framework for identical product characteristics can be used on a voluntary basis to overcome national regulatory differences in some areas. [22] In this respect, the Commission recalls the assessment it plans to undertake for a policy framework to establish a European market for simple, efficient and competitive personal pensions [23] and acknowledges recent related work undertaken by EIOPA in this area. [24]

Next Steps

The Commission is inviting comments on the Green Paper by 18 March 2016 through an online questionnaire. [25] The Commission plans to organise a conference in early 2016 to examine the evidence yielded by the Green Paper and envisages publishing an Action Plan on Retail Financial Services around summer 2016.

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endnotes

[1] Green Paper on Retail Financial Services: Better products, more choice, and greater opportunities for consumers and businesses, European Commission, 10 December 2015, available from <http://ec.europa.eu/transparency/regdoc/rep/1/2015/EN/1-2015-630-EN-F1-1.PDF>

[2] See Member Memo Ref 29392, dated 1 October 2015, for an overview of the CMU Action Plan, available from <https://www.iciglobal.org/vgn-ext-templating/v/index.jsp?vnextoid=665a266116420510VgnVCM100000650210acRCRD&vnextchannel=4d1b1e9fd9c3b410VgnVCM1000001c0210acRCRD&vnextfmt=global>

[3] An overview of the initiatives that the Commission is pursuing to bring down barriers to unlock online opportunities under its Digital Single Market Strategy is here <http://ec.europa.eu/priorities/digital-single-market/>

[4] An overview of the initiatives that the Commission is pursuing to develop the European Single Market is here http://ec.europa.eu/growth/single-market/index_en.htm. The Commission recently published a Communication outlining plans to upgrade the Single Market, 28 October 2015, available from <http://ec.europa.eu/DocsRoom/documents/14007/attachments/1/translations/en/renditions/native>

[5] p3, Green Paper

[6] See Member Memo Ref 29441, dated 22 October 2015, for an overview of the EU Commission’s Call for Evidence: EU Regulatory Framework for Financial Services, available from <https://www.iciglobal.org/portal/site/ICI/menuitem.9ad35c6866c5fcca09ce3110b52001ca/?vnextoid=4c6bdceeff090510VgnVCM100000650210acRCRD&vnextchannel=4d1b1e9fd9c>

[3b410VgnVCM1000001c0210acRCRD&vgnextfmt=global](#)

[7] Directive 2014/65/EU of the European Parliament and of the Council of 15 May 2014 on markets in financial instruments and amending Directive 2002/92/EC and Directive 2011/61/EU (OJ L 173, 12.6.2014, p.349)

[8] See Joint Committee Consultation Paper on guidelines for cross-selling practices, 22 December 2014, available from http://www.esma.europa.eu/system/files/jc_cp_2014_05_consultation_paper_on_cross_sellin g.pdf

[9] Question 2, Green Paper

[10] Question 6, Green Paper

[11] Question 1, Green Paper

[12] Question 3, Green Paper

[13] Question 4 and Question 5, Green Paper

[14] Question 7, Green Paper

[15] Question 10, Green Paper

[16] Directive 2009/65/EC, as amended, most recently, by Directive 2014/91/EU of the European Parliament and of the Council of 23 July 2014 amending directive 2009/65/EC on the coordination of laws, regulations and administrative provisions relating to undertaking for collective investments in transferrable securities (UCITS) as regards depository functions, remuneration policies and sanctions (OJ L 257, 28.8.2014, p. 186)

[17] Regulation (EU) No 1286/2014 of the European Parliament and of the Council of 26 November 2014 on key information documents for packaged retail and insurance-based investment products (OJ L 352, 9.12.2014, p.1)

[18] p18, Green Paper

[19] Question 17, Green Paper

[20] The Commission is seeking feedback on “rules outdated due to technological change” in the Call for Evidence: EU Regulatory Framework for Financial Services.

[21] Question 23 and Question 24

[22] Question 32, p28, Green Paper

[23] p19, CMU Action Plan

[24] See Member Memo Ref 29411, dated 7 October 2015, ICI Global Comments on pan-European Personal Pension Product Consultation for a discussion of EIOPA’s work on PEPP and ICI Global’s submitted comments, available from <https://www.iciglobal.org/portal/site/ICI/menuitem.9ad35c6866c5fcca09ce3110b52001ca/?vgnextoid=b399e79868340510VgnVCM100000650210acRCRD&vgnextchannel=4d1b1e9fd9c3b410VgnVCM1000001c0210acRCRD&vgnextfmt=global>

[25]

<https://ec.europa.eu/eusurvey/runner/retail-financial-services-2015?surveylanguage=en>

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