

MEMO# 34000

January 18, 2022

ESMA Call for Evidence on Retail Investor Protection - ICI Global Response

[34000]

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TO: ESG Task Force
EU ESG Disclosure Regulation Working Group
Global Advocacy Coordination Advisory Committee
Global EU Capital Markets Union Task Force
Global Operations Advisory Committee
Global Regulated Funds Committee RE: ESMA Call for Evidence on Retail Investor Protection - ICI Global Response

On 24 December 2021, ICI Global submitted its response to the European Securities and Markets Authority's (ESMA) call for evidence on certain retail investor protection issues (attached).[\[1\]](#) ICI Global's submitted response takes account of member input on the draft response.[\[2\]](#)

ICI Global's Response

In our submitted response, we focus on the investor disclosure and digital disclosure topics covered in the Call for Evidence. We also offer additional perspectives on the interoperability between MiFID II and the Sustainable Finance Disclosure Regulation (SFDR).

We set out our view that the EU's regulatory framework for retail investment contains broadly the right protections. However, the current framework does not sufficiently empower retail investor engagement in EU capital markets, particularly on a cross-border basis and when investors are using digital technology. Moreover, without ESMA guidance, the amended suitability framework may work in practice to hinder retail investors' choices of investment products. We recommend the following reforms:

- **Provide EU investors with useful information to compare products and make informed investment decisions** by replacing the patchwork of cost categories in existing disclosures with a unified categorization that is used across all investor disclosures and splits out distribution and management costs (see response to question 2).
- **Reduce the risk of information overload for retail investors** by taking further

steps to develop a harmonised pan-EU disclosure regime for investment products—building on existing approaches in UCITS and PRIIPs—to eliminate Member State level supplementary investor disclosures (see response to question 3).

- **Improve the consistency of investor disclosures** by aligning the concepts of "non-complex" products in MIFID and "simple" products in PRIIPs, and converging Member State supervisory approaches to defining complexity (see response to question 4).
- **Ensure retail investors receive the right vital information before buying an investment product** by completing reforms to the PRIIPs KID including introducing past investment performance information, revised transaction costs calculations, and a renamed risk indicator (see response to question 5).
- **Ensure that retail investors have a means to express a broad range of investment preferences related to environmental and social characteristics** by confirming via a Q&A document (or similar), that retail clients may express a preference for financial products with sustainability characteristics that do not fall within the amended MiFID II definition of "sustainability preferences," and that investment firms may make available to retail clients financial products meeting such preferences.
- **Permit national competent authorities to engage in regulatory forbearance with respect to the application of suitability assessments relating to sustainability preferences** until full disclosures are being made under the SFDR RTS and the Taxonomy Regulation (as a minimum, prior to 1 January 2023, but ideally until financial undertakings are required to make disclosures under Article 8 of the Taxonomy Regulation in January 2024).
- **Improve retail investors' experience of fund subscription by enabling funds to utilise digital innovation and technology**, including: (i) making all forms of e-delivery the default for all disclosures; (ii) enabling disclosures to be adapted for delivery in non-document form (e.g., on a mobile phone app or webpage); and (iii) enabling the use of a portable digital identity framework (see response to questions 15 and 47).

Next Steps

ESMA plans to deliver its advice to the European Commission on topics covered in the call for evidence by 30 April 2022.

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Endnotes

[1] ICI Memorandum No. 33921, RE: ESMA Call for Evidence on Retail Investor Protection – Member Call on 1 December 2021, *available from* <https://www.ici.org/memo33921>

[2] ICI Memorandum No. 33944, RE: ESMA Call for Evidence on Retail Investor Protection – Draft ICI Global Response for input by 14 December, *available from* <https://www.ici.org/memo33944>

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