

PRESS RELEASE

All Talk, Little Action: European Commission releases watered down Capital Markets Union (CMU) Action Plan

24 September 2020 – The European Commission’s (EC) Directorate-General for Financial Services, Financial Stability and Capital Markets Union (DG FISMA) published [a third action plan to build a Capital Markets Union \(CMU\)](#) – this time for “*people and businesses*” - which sets 16 policy and regulatory objectives in order to “*finally complete the Capital Markets Union*”.¹

Although the Action Plan is *de facto* built on the framework of the [Final Report of the High-Level Forum on the Future of the CMU \(HLF CMU Report\)](#), BETTER FINANCE is disappointed to see that **retail investors** are still not at the forefront on these policy and regulatory proposals.

The Action Plan says more than what it actually sets out to do: “*Consumers should have more choice*”, be “*appropriately protected*”, get “*fair investment outcomes*” since “*savings generate low or even negative real interest rates*”, the CMU should “*contribute to building trust*”, acknowledging that there is “*limited comparability of similar investment products*” or that “*the current structure and features of retail distribution systems are often insufficiently competitive and cost-effective*”.

Yet, the measures planned to implement Actions 7, 8, and 9 on making “*the EU an even safer place for individuals to save and invest long-term*” lack the ambition from both the HLF CMU Report and the European Parliament’s Economic and Monetary Affairs (ECON) own initiative report on the Capital Markets Union.²

Moreover, we are disappointed to see that on some counts the new CMU Action Plan limits itself to a few “quick fixes” for retail investors - the largest source of long-term funding for the EU economy - and delays its lofty ambitions (*adequate protection, biased-free advice, competitive and cost-efficient financial products, transparent, comparable and understandable product information*) for a **retail investment strategy** to 2022.

Nevertheless, BETTER FINANCE welcomes the initiatives enshrined in Actions 7 – 9 as a good, yet slow and late, start towards creating an investing environment that fosters retail investor participation, equity financing of the real economy and sustainable, decent long-term investment returns. These actions, coupled with the Digital Finance Package and the Sustainable Finance Strategy, may have the potential to kick-start the construction of the CMU in earnest.

Guillaume Prache, Managing Director of BETTER FINANCE, believes “*that a true Capital Markets Union must start by addressing all issues that discourage retail investors from investing their savings in the real economy and receive decent long-term returns (value for money)*”.

The table in the Annex compares BETTER FINANCE’s Key Priorities for the term of 2019 – 2024 with the resolutions in the ECON Committee’s CMU Report and in the EC CMU Action Plan. Compare this table with that of the [HLF CMU Recommendations listed in our 10 June Press Release](#) to draw your own conclusions.

Additional information: [BETTER FINANCE Key Priorities for 2019 – 2024](#)

¹ The CMU Action Plan quoting the EC President, Ursula von der Leyen.

² See here the consolidated text https://www.europarl.europa.eu/doceo/document/A-9-2020-0155_EN.html; note that the report was voted in the Committee only so far.

BETTER FINANCE Key Priorities	ECON CMU Report	CMU Action Plan v.3.
MAKE CAPITAL MARKETS ATTRACTIVE FOR RETAIL INVESTORS		
<p>Ensure the consistency of all EU financial user protection rules</p> <p>Eliminate inconsistencies between existing investor and policyholder protection rules (e.g. MiFID II and PRIIPs, IDD and IBIPs) (...) in particular conflicts of interests...</p>	<p>Regrets with concern that the consumer and investor protection provisions in several sectorial pieces of EU financial services legislation are poorly aligned, resulting in undue complexity for financial intermediaries and retail clients alike; calls on the Commission to adopt a more horizontal and harmonised approach to consumer and investor protection in EU financial services legislation, adapted to the green and digital transformation, in order to ensure effective and consistent levels of protection across all financial products and providers;</p> <p>Calls on the Commission to promote the direct involvement of retail savers in financing the economy, considering the possibility of return on investment for retail investors.</p>	<p>No action</p> <p>(not to be confused with Action Point 16 on the Single Rulebook)</p>
<p>Make the European capital markets more attractive for EU citizens as savers and investors</p> <p>Use taxes as an incentive, not as a punishment</p>	<p>Calls on Member States to work closely with the OECD and its Tax Relief and Compliance Enhancement (TRACE) Project, to rebalance the equity-debt bias penalising the financing of innovation through private investment, and to incentivise long-term investment opportunities for investors in order to help EU citizens gain better returns on their long-term savings</p>	<p><i>In order to lower tax-related costs for cross-border investors and prevent tax fraud, the Commission will put forward a legislative initiative by Q4 2022, subject to a positive impact assessment and in close consultation with Member States, as well as explore additional ways to introduce a common, standardised, EU-wide system for withholding tax relief at source.</i></p>
<p>Make the European capital markets more attractive for EU citizens as savers and investors</p> <p>Increase the responsibility of institutional investors e.g. by establishing a fiduciary duty to exercise all voting rights, disclose securities lending/collateralization and short selling to the end investor/beneficial owner, and ban the re-lending or re-collateralization of securities.</p> <p>Introduce cost free cross-border voting for retail investors within the EU reflecting the increasingly international portfolios of individual investors to help regain their</p>	<p>Further harmonising rules on corporate governance, including a common definition of 'shareholder' to facilitate the exercise of shareholder rights and engagement with investee companies across the EU</p>	<p><i>To facilitate investor engagement, in particular across borders, the Commission will assess: (i) the possibility of introducing an EU-wide, harmonised definition of 'shareholder', and; (ii) if and how the rules governing the interaction between investors, intermediaries and issuers as regards the exercise of voting rights and corporate action processing can be further clarified and harmonised.</i></p>

<p>trust and to ensure a stronger governance of companies.</p>		<p><i>The Commission will also examine possible national barriers to the use of new digital technologies in this area.</i></p>
	<p>Observes that the regulation of financial services is a very complex undertaking, existing at international, European and national level; encourages all relevant actors to address this complexity in order to ensure the proportionality of financial regulation, and to remove unnecessary administrative burdens; also notes that proportionality of financial regulation can sometimes lead to increased complexity, and calls on the Commission and the Member States to commit to significant efforts to streamline and harmonise existing and future rules, by phasing out national exemptions as appropriate and by preventing the ‘gold-plating’ of EU law at national level; highlights that regulations with clear timelines for transition and the phasing-out of existing regimes can build a smooth and steady path to regulatory convergence;</p>	<p><i>The Commission will work towards an enhanced single rulebook for capital markets by assessing the need for further harmonisation of EU rules and monitoring progress towards supervisory convergence.</i></p>
PRE-CONTRACTUAL DISCLOSURE		
<p>Better access to comparable, fair, clear and not misleading information</p> <p>Urgently review the PRIIPs Regulation”</p> <p>Simplify and standardise the key information documents</p> <p>Improve transparency on performance and fees of all investment products by developing the initial work of the ESAs, and by urgently reviewing the PRIIPS Regulation</p> <p>Reinstate the comparable disclosure of long term past performances relative to the benchmarks of the providers, eliminate the unreliable future scenarios, reinstate intelligible, comparable and comprehensive disclosures on costs and fees.</p>	<p>Calls for the improvement of the disclosure and comparability of key information and the elimination of misleading information in the legislation on Packaged Retail Insurance-based Investment Products (PRIIPs), issues which should be addressed in the next review;</p> <p>Notes the importance of ensuring both that past performance information is available to investors and that past performance cannot be used as an indicator to predict future returns;</p> <p>Insists that the forthcoming review should provide for disclosure documents which are standardised and machine-readable, thereby enabling comparability in a digital-friendly way;</p>	<p><i>The Commission will assess the applicable rules in the area of inducements and disclosure and, where necessary, propose to amend the existing legal framework in order to ensure that retail investors receive fair and adequate advice as well as clear and comparable product information.</i></p>
<p>Differentiate between inexperienced and experienced investors</p>	<p>Requests the Commission to consider if the introduction of a category of semi-professional investors would better respond to the reality of participation on the financial markets and, on the basis of its findings, assess whether the</p>	<p><i>The Commission will put forward a legislative proposal to amend MiFID II by Q4 2021/Q1 2022 to reduce the administrative burden and information requirements for a subset of retail investors. This will involve reviewing the</i></p>

	introduction of such a category would be needed or not;	<i>existing investor categorisation of retail vs. professional investors or the introduction of a new category of qualified investors.</i>
Follow up on employee share ownership best practices with a CMU “Action”.	Calls on the Commission to explore initiatives to incentivise employee share ownership, in order to promote the direct involvement of retail savers in the financing of the economy, and also as a tool to improve corporate governance and help develop an equity culture;	No action
	Pan-European procedure and platform for easy refund of cross-border taxes on dividends;	<i>In order to lower tax-related costs for cross-border investors and prevent tax fraud, the Commission will put forward a legislative initiative by Q4 2022, subject to a positive impact assessment and in close consultation with Member States, as well as explore additional ways to introduce a common, standardised, EU-wide system for withholding tax relief at source.</i>
Create public or at least independent EU-wide web-based comparison tools	Facilitating the development of independent web-based EU comparison tools, to help retail investors determine the most appropriate products in terms of risk, return on investment and value for their particular needs and preferences	No action (see Digital Finance consultation from the European Commission)
Impose consistent investor protection and level playing field between the regulated capital markets and the “dark” venues generated by MiFID I and that now capture more than half of capital market transactions.	Notes with concern that over the past years an increasing share of trading flows has gone to trading venues with limited transparency requirements, and points out that such trading does not contribute meaningfully to price discovery; notes that levels of bilateral trading off-venue remain high; advocates a genuine shift towards competitive and on-exchange trading in European equity and derivatives markets, while ensuring a level playing field between different trading venues;	No action (not to be confused with the Consolidated Tape action point)
	Further harmonising rules on corporate governance, including a common definition of ‘shareholder’ to facilitate the exercise of shareholder rights and engagement with investee companies across the EU	<i>To facilitate investor engagement, in particular across borders, the Commission will assess: (i) the possibility of introducing an EU-wide, harmonised definition of ‘shareholder’, (...)</i>

<p>Introduce a clear and compulsory taxonomy for “green” products, and progressively widen the taxonomy; not be limited to only “E” (Environment) but also extended to the “S” (Social) and “G” (Governance) criteria.</p> <p>Adopt a well-designed and controlled ecolabel based on the taxonomy.</p> <p>Improve the long-term engagement of asset managers (“other people’s money”) with investee companies and introduce a better alignment of asset managers’ and distributors’ incentives with clients’ long-term returns.</p> <p>“Green” products must deliver decent returns for long-term and pension savers and a high degree of transparency on how the money invested has been used. In particular, insurers’ Asset /Liabilities Management (ALM) must end its over-reliance on Sovereign debt investing and provide decent real long-term returns (“value for money”) to pension savers, including during the pay-out phase.</p>	<p>Insists that retail investors will be an integral part of the sustainable finance agenda and the EU’s sustainable development agenda; calls on the Commission to ensure that the taxonomy label methodology is clear and understood by retail investors;</p>	<p>No action</p> <p><i>(see Sustainable Finance Strategy Consultation of the European Commission)</i></p>
<p>ADEQUATE PROTECTION FOR RETAIL INVESTORS</p>		
<p>Ensure fair and equal access to redress</p> <p>Introduce common rules for collective redress for all EU investors</p> <p>Improve the new collective redress mechanism by including direct investors in the proposed collective redress scheme,</p> <p>Ensure proper enforcement of EU rules against mis-selling</p> <p>The ESAs should be encouraged to fully use their new product intervention powers and sanction any kind of mis-behaviour by manufacturers and distributors.</p>	<p>Underlines the importance of enhancing investor confidence in the capital markets, fostered by sound investor protection and supported by financially literate market participants;</p>	<p><i>The Commission will propose to strengthen the investment protection and facilitation framework in the EU.</i></p>
<p>Sustain the EU support to the involvement of financial services users in EU policy making</p> <p>BETTER FINANCE recommends to fairly assess and sustain the EU support -started following the 2008 crisis -to better involve investors and other users of financial services in the EU financial policy making process.</p>	<p>Calls on the Commission to ensure the proper funding of civil society operators and consumers’ representatives in the field of financial services, since they offer invaluable insight and independent assessment to policymakers and regulators;</p>	<p>No action</p>
<p>ENSURE ACCESS TO FAIR ADVICE AND FINANCIAL PRODUCTS</p>		

<p>Better access to simple and transparent products</p> <p>A better alignment of distributors' incentives with clients' returns by minimising conflicts of interests in the distribution</p>	<p>Stresses that financial education cannot replace access to reliable and impartial professional financial advice</p> <p>Calls for amendments to legislation to ensure access to independent advice by financial intermediaries without undue promotion of the financial products manufactured 'in-house', and with a thorough assessment of products from a range of manufacturers, and to ensure a fair and transparent marketing of financial products;</p> <p>Agrees that the role of inducements in intermediation and distribution should be further examined to ensure that no conflicts of interest arise and that financial advice is fairly, transparently and adequately supplied to investors</p>	<p><i>The Commission will assess the applicable rules in the area of inducements and disclosure and, where necessary, propose to amend the existing legal framework in order to ensure that retail investors receive fair and adequate advice as well as clear and comparable product information.</i></p> <p><i>Subject to a positive impact assessment carried out in the context of the reviews of the IDD by Q1 2023 and MiFID II by Q4 2021, the Commission will introduce a requirement for advisors to obtain a certificate that proves that their level of knowledge and qualifications is sufficient to access the profession, and shows that they take part in an adequate level of continuous education. This aims to maintain a satisfactory level of advisor performance.</i></p> <p><i>In addition, by Q1 2022 the Commission will assess the feasibility of setting up a pan-EU label for financial advisors, which can be used to comply with the requirement to obtain a certificate.</i></p>
<p>IMPROVE FINANCIAL LITERACY</p>		
<p>Promote investor education as key to the success of a real CMU</p> <p>Require distributors to improve the financial education of their staff members especially with respect to equities, bonds and ETFs, and minimize their conflicts of interests with regard to more indirect, more complex and more commission-laden investment products.</p> <p>Provide basic financial math and investment education already at school</p> <p>Financial education efforts from the industry should be monitored and supervised by independent bodies.</p>	<p>Notes that employee share ownership programmes are among the most effective means of increasing financial awareness and literacy for adult EU citizens;</p> <p>Urges the Member States, as well as, where appropriate, competent regional, local or other public authorities, to consider including or expanding financial literacy in all curricula from school to university,</p>	<p><i>In order to promote a shared understanding of financial competence among public authorities and private bodies and to provide a basis for the development of financial competence in various applications and settings, the Commission will conduct a feasibility assessment for the development of a dedicated EU financial competence framework by Q2 2021, building on relevant existing frameworks.</i></p> <p><i>The Commission will assess whether it is appropriate to extend the principle enshrined in Article 6 of the Mortgage Credit Directive to relevant sectoral legislation</i></p>

		<p>– [MiFID2, IDD, PEPP, PRIIPs, UCITS]</p> <p><i>It will do this with a view to proposing, if supported by a positive impact assessment, a horizontal omnibus legislation requiring Member States to promote formal, non-formal and/or informal learning measures that support the financial education of consumers, in particular in relation to responsible investing.</i></p>
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