

PRESS RELEASE

‘NEW DEAL FOR CONSUMERS’ – AN IMPORTANT BREAKTHROUGH FOR MANY FINANCIAL SERVICES USERS BUT NOT FOR EU CITIZENS AS INDIVIDUAL SHAREHOLDERS

17 April 2018 - Many financial services providers already operate across borders in different Member States. Like for other sectors, the case for EU-wide collective redress for financial services is clear and in the interest of EU citizens as retail investors and pension savers. Over the years there have been numerous mis-selling scandals in the financial services industry that have harmed individual investors. In many of these cases the lack of collective redress mechanisms prevented victims from seeking compensation for losses and damages suffered¹. Consequently, consumers and investors have lost confidence in financial services and their providers which is clearly reflected in the EC Consumer Markets Scoreboard where “retail” financial services are ranked as one of the worst consumer markets in the entire EU.

In response the European Commission now decided to beef up the EU consumer law and published proposals to introduce a limited collective compensation mechanism (collective redress) across the EU that would cover financial services. BETTER FINANCE welcomes the Commission’s proposal since it has long advocated¹ for an EU-wide collective redress mechanism for all financial services users such as savers, retail investors, life insurance policy holders, pension fund participants, small and individual shareholders or employee shareholders.

BETTER FINANCE has been underlining that the right to redress and the right to access to justice is especially important in the area of financial services where:

- technical and complex financial products have a serious impact on the quality of life of active and retired citizens; and
- due to the lack of an effective redress mechanism many consumers are unable to exercise their rights.

BETTER FINANCE considers the proposal to be an important first step for consumers towards a full-blown collective redress scheme across the EU. However, it has to be pointed out that the procedure requires claimants to first obtain a final injunction order from a court before the judge decides whether to allow for some form of collective compensation. This requirement will severely prolong the procedure to the detriment of consumers. Moreover, BETTER FINANCE regrets that the proposal lacks ambition as regards the effectiveness of the redress tool and leaves both the form of the representative action and the requirement for an

¹ Please see point 5.2 on page 27 in BETTER FINANCE’s Briefing Paper on Mis-selling of Financial Products http://betterfinance.eu/fileadmin/user_upload/documents/Research_Reports/en/Misselling_of_Financial_Products_in_the_EU_-_Briefing_Paper_2017.pdf

and BETTER FINANCE’s response to the targeted consultation on the revision of Injunctions Directive http://betterfinance.eu/fileadmin/user_upload/documents/Position_Papers/Investment/en/16.11.2017_BETTER_FINANCE_response_targeted_consultation_Injunctions.Collective_Redress.pdf

official mandate from each victim (“opt-in” procedure) at the discretion of Member States. This is all the more unfortunate as it has been already proven that the opt-out system offers victims better protection, especially when they are not aware of their rights. Furthermore, since the rate of participation in the opt-out system is much higher, many more abused EU financial users would be reached and indemnified.

Last but not least, the proposal seems incoherent and discriminatory. On the one hand it offers protection to consumers who invest their money in capital markets indirectly, but on the other hand leaves EU citizens investing directly in the economy (i.e. individual shareholders) on their own, since the Market Abuse Directive and Regulation provisions are most unfortunately excluded from the EC proposal’s scope. Consequently, individual investors suffering damage by the same issuer, e.g. by VW, still won’t be able to join their claims together into one single action covering all Member States. Regrettably, it will not help regain investors’ trust and boost their confidence, thereby not contributing to the stated aim of the Commission’s flagship project the Capital Markets Union.

Guillaume Prache, Managing Director General of BETTER FINANCE stated that *“individuals as financial services users are not equipped to assess their detriment, and even less equipped to obtain redress in court on their own: it is very often too technical and too costly for them. Long-standing research on long-term savings² by BETTER FINANCE proves that the collective redress tool for financial services users’ is long overdue. Unfortunately, as it stands, it may still be cheap to cheat EU citizens as individual shareholders, just like it’s been for VW in the Diesel-gate saga”*.

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² 2017 Pension Savings Report

[http://betterfinance.eu/fileadmin/user_upload/documents/Research_Reports/en/Pension_Report_2017 - Full Report - Online Version.pdf](http://betterfinance.eu/fileadmin/user_upload/documents/Research_Reports/en/Pension_Report_2017_-_Full_Report_-_Online_Version.pdf)