PRESS RELEASE

EU Authorities must disclose the falsely active funds ("closet indexers") they identified

15 February 2016 - On 11 February 2016 Better Finance sent an open letter to the Directorate-General for Financial Stability, Financial Services and Capital Markets Union (DG FISMA) and to the Commissioner for Financial Stability, Financial Services and Capital Markets Union to request that the European Securities and Markets Authority (ESMA) follow up on its release of the results of its investigation into falsely active equity UCITS funds, and actually disclose the names of the hundreds of funds that it highly suspects of engaging in "closet indexing" and therefore of misleading investors.

On 10 October 2014, Better Finance had asked ESMA to carry out an EU-wide investigation on closet indexing.

At the beginning of February 2016 ESMA eventually released results of its investigation, confirming that up to 15 % of the UCITS funds sampled are in all likelihood falsely active funds, charging high active management fees for what in reality are passively managed low cost equity index funds.

ESMA - unlike the Norwegian regulator – would not disclose these funds that were uncovered by its investigation as most likely falsely active, nor would it disclose in which countries they are domiciled, leaving EU investors totally in the dark. Moreover, despite having already taken more than a year to perform a quantitative followed by a qualitative investigation, ESMA now leaves it up to National Competent Authorities to deal with this huge case of wronged investors, without setting any timeline or obligation to disclose. However, investors holding those funds have waited and suffered long enough, and can certainly not wait for hypothetical action, with no timeline, by unknown national regulators.

EU law clearly requires ESMA to enhance the protection of EU investors. Therefore, Better Finance asks the EU to promptly disclose the names of the hundreds of funds[1] that it highly suspects of engaging in "closet indexing" and therefore of severely misleading investors.

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[1] 15% of the ESMA « sample » equals 390 UCITS funds; 15 % of the ESMA "sub-sample » equals 188 UCITS funds. ESMA did not disclose why it could work only on the « sub-sample ». Better Finance suspects a large number of UCITS equity funds do not disclose their benchmark and do not disclose their relative performance to those benchmarks in their Key Investor Information document ("KIID").