

PRESS RELEASE

THE LUXEMBOURG FINANCIAL SUPERVISOR FINALLY - BUT DISAPPOINTINGLY - REPORTS ON CLOSET INDEX FUNDS

1 August 2017 - A year and a half after the European Securities & Markets Supervisor (ESMA) asked CSSF (the Luxembourg supervisor) to investigate the potential cases of closet indexing (falsely active funds) it identified in Luxembourg, the CSSF issued a short press release on 28 July 2017, many months after its colleagues from other important fund domiciles such as the UK, France and Germany had completed - and reported - on their own investigations. ESMA's investigation itself came out almost a year and a half after BETTER FINANCE asked for it (October 2014).

CSSF's published conclusions are however quite weak:

- Although ESMA identified up to 15% of potentially closet index funds, CSSF found only one, but this one still being analysed and its name kept hidden from investors.
- CSSF does not disclose what is its definition of "closet indexing", which must differ from the one of BETTER FINANCE (see our findings here), and most likely from the one of the European Commission who highlighted that ***"a significant proportion of funds that are marketed as active are actually passively managed to a large extent"***.
- CSSF does implicitly and very vaguely acknowledge however that "some" funds violate disclosure rules on benchmarks: *"investor disclosure in relation to the use of a benchmark can be improved for some of the funds under review"*.

This is quite an understatement. BETTER FINANCE has found that more than half of the equity funds that:

- not only are suspicious according to ESMA's closet indexing metrics and methodology,
- but also fail to disclose benchmark performance alongside fund performance in their Key Investor Information Document or KIID¹ are domiciled in Luxembourg.

Unfortunately, CSSF fails to disclose whether it intends to sanction and end these violations.

BETTER FINANCE asks CSSF and the other national supervisors to enforce the EU law on benchmark disclosures to eventually allow investors to check how their funds have performed versus their benchmarks. It has also notified both the European Commission and ESMA last March about this serious enforcement issue, but has not received any response so far.

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¹ In violation of articles 7.1(d) and 18 of EU Regulation N° 583/2010 on the UCITS KIID