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Subject: Reform of the European Supervisory Authorities and financial consumer protection - factual mistake in the revision of the EIOPA Regulation to the detriment of financial consumers

Dear Ms. Tingali, Dear Mr. Dombrovskis, Dear Mr. Marić,

We are writing to you in our capacity as executives of major EU public interest organisations working on financial services concerned about a mistake in the revised EIOPA Regulation that could result in EIOPA's stakeholder groups being dominated by the industry stakeholders.

Back in November 2017, we formed an Alliance to voice their disappointment with the European Commission's proposal for the review of the European Supervisory Authorities (ESAs), and to make proposals to remedy the situation. The Alliance reiterated its main issues in a joint statement in July 2018 following the report on the review by the ECON Committee. Later in September we were pleased to see that, thanks in large part to the work by co-rapporteur Pervenche Berès (MEP), many amendments were in line with the ones proposed by the Alliance. Unfortunately, when we look at the currently available text¹ adopted by the European Parliament in April, we are very surprised with the upcoming specific change to the composition of the EIOPA stakeholder groups (SGs) and the high risk of having the number of user-side representatives reduced in favour of financial industry ones due to a mistake made during the finalisation of the text of the regulation.

Since the very beginning of the ESAs review the user side organisations were stressing the need for an actually balanced representation of the industry-side and users-side in all four stakeholder groups of the ESAs (the balancing principle was already in EU Law). The European Parliament amendments were clearly oriented at strengthening the ESAs' consumer protection mandate and balancing the industry and user representations. Therefore, we are asking for a correction of the mistake in the new Regulation, which entered into force on January 1st 2020, as soon as possible, since keeping this erroneous wording in the articles related to the composition of the stakeholder groups of EIOPA would jeopardise the balanced representation of the industry and user-side representatives contrary to the stated aim of strengthening the consumer protection mandate of the ESAs².

The **old articles** provided the following.

Article 37 EBA Regulation:

'The Banking Stakeholder Group shall be composed of 30 members, representing in balanced proportions credit and investment institutions operating in the Union, their employees' representatives as well as consumers, users of banking services and representatives of SMEs. At least five of its members shall be independent top-ranking academics. Ten of its members shall represent financial institutions, three of whom shall represent cooperative and savings banks.'

Art. 37 ESMA Regulation:

'The Securities and Markets Stakeholder Group shall be composed of 30 members, representing in balanced proportions financial market participants operating in the Union, their employees' representatives as well as consumers, users of financial services and representatives of SMEs. At least five of its members shall be independent top-ranking academics. Ten of its members shall represent financial market participants.'

Art. 37 EIOPA Regulation:

"The Insurance and Reinsurance Stakeholder Group shall be composed of 30 members, representing in balanced proportions insurance and reinsurance undertakings and insurance intermediaries operating in the Union, and their employees' representatives, as well as consumers, users of insurance and reinsurance services, representatives of SMEs and representatives of relevant professional associations. At least five of its members shall be independent top-ranking academics. Ten of its members shall represent insurance undertakings, reinsurance undertakings or insurance intermediaries, three of whom shall represent cooperative and mutual insurers or reinsurers."

¹ <https://eur-lex.europa.eu/legal-content/EN/TXT/PDF/?uri=CELEX:32019R2175&from=EN>

² Please see recitals 1 and 42

“The Occupational Pensions Stakeholder Group shall be composed of 30 members, representing in balanced proportions institutions for occupational retirement provision operating in the Union, representatives of employees, representatives of beneficiaries, representatives of SMEs and representatives of relevant professional associations. At least five of its members shall be independent top-ranking academics. Ten of its members shall represent institutions for occupational retirement provision.”

The **new articles**:

SMSG (art. 37 ESMA Regulation):

The Securities and Markets Stakeholder Group shall be composed of 30 members. Those members shall comprise of:

(a)13 members representing, in balanced proportions, financial market participants operating in the Union;

(b)13 members representing employees’ representatives of financial market participants operating in the Union, consumers, users of financial services and representatives of SMEs; and

(c) four members who are independent top-ranking academics.

BSG (art. 37 EBA Regulation):

The Banking Stakeholder Group shall be composed of 30 members. Those members shall comprise of:

(a)13 members representing, in balanced proportions, financial institutions operating in the Union of whom three shall represent cooperative and savings banks;

(b)13 members representing employees’ representatives of financial institutions operating in the Union, consumers, users of banking services and representatives of SMEs; and

(c) four members who are independent top-ranking academics

IRSG (art. 37 EIOPA Regulation):

The Insurance and Reinsurance Stakeholder Group shall be composed of 30 members. Those members shall comprise of:

(a)13 members representing, in balanced proportions, insurance and reinsurance undertakings and insurance intermediaries operating in the Union, of whom three shall represent cooperative and mutual insurers or reinsurers;

*b)13 members representing employees’ representatives of insurance and reinsurance undertakings and insurance intermediaries operating in the Union, consumers, users of insurance and reinsurance services, representatives of SMEs and representatives of **relevant professional associations**; and*

(c)four members who are independent top-ranking academics

OPSG (art. 37 EIOPA Regulation):

The Occupational Pensions Stakeholder Group shall be composed of 30 members Those members shall comprise of:

(a)13 members representing in balanced proportions institutions for occupational retirement provision operating in the Union;

*(b)13 members representing representatives of employees, representatives of beneficiaries, representatives of SMEs and representatives of **relevant professional associations**; and*

(c)four members who are independent top-ranking academics.

In the EIOPA IRSG and OPSG **only**, this new wording results in a substantial imbalance between industry and user representatives. The reason is that ‘professional associations’ are explicitly mentioned as part of the 13 non-industry representatives, which is not the case in the other stakeholder groups. In the other stakeholder groups ‘professional associations’ are not explicitly mentioned, but have always been obviously and rightly considered as part of the industry-side representatives. While the old texts still left sufficient flexibility for EIOPA to allow a balanced industry–users representation in its stakeholder group,

the new texts make this impossible and totally inconsistent with the rules for ESMA and EBA and with the stated intent of the EU Regulators. For example, insurance companies can now apply for the insurance undertakings category, and their national or EU level trade organisations can apply to the category meant for users. Therefore, the inclusion of professional associations representing the industry in the group of 13 non-industry representatives, leads to an imbalance in industry-users representation in the IRSG and the OPSG, to the detriment of the latter.

As we are aware that correcting the mistake made during the drafting process may take time, we ask you, in the meantime, to take measures in order to ensure a balanced industry-users representation, thus not including members representing a professional industry association in the non-industry category, in line with the ESMA and EBA rules and with the overall intent of the ESAs reform.

Thank you for your understanding, and we are of course happy to help in any way we can.

Best regards,

Guillaume PRACHE
Managing Director
BETTER FINANCE



Monique Goyens
Director General
BEUC



Benoît Lallemand
Secretary General
Finance Watch



Anne-Sophie Parent
Secretary General
AGE Platform Europe



Elizabeth Gosme
Director
Families Europe



About us:

BETTER FINANCE, the European Federation of Investors and Financial Services Users counts 38 member organisations and represents more than 4 million individual members altogether. It is the public interest non-governmental organisation advocating and defending the interests of European citizens as financial services users at the European level to lawmakers and the public in order to promote research, information and training on investments, savings and personal finances. It is the one and only European-level organisation solely dedicated to the representation of individual investors, savers and other financial services users.

BEUC, the European Consumer Organisation, is the Brussels-based federation of 45 independent national consumer organisations from 32 European countries. BEUC is a non-profit association and for more than 55 years has been bringing together consumer organisations to promote, defend and represent the interests of European consumers in the development and implementation of European Union policies. BEUC's role is to inform our

member organisations about EU developments, to represent our members in relevant EU dossiers and to act as the consumer voice in Europe.

AGE Platform Europe is a European network of more than 100 organisations of people aged 50+ representing directly more than 40 million older people in Europe. AGE aims to voice and promote the interests of the 190 million inhabitants aged 50+ in the European Union and to raise awareness of the issues that concern them most. AGE's mission is to give a voice to older and retired people in the EU policy debates through the active participation of their representative organisations at EU, national, regional and local levels so as to inform EU policy development.

Finance Watch is the independent non-profit Members' association that defends the public interest in financial reform, with more than 90 Members including experts and civil society organisations that together represent millions of European citizens.

COFACE Families Europe has been involved for 60 years in building a strong social, inclusive and family-friendly Europe. It brings forward the voice of millions of families (all types, without discrimination), gathering 58 organisations from all over Europe. COFACE Families Europe advocates for strong social policies that take into consideration family needs and guarantee equal opportunities for all families. More: www.coface-eu.org