

**to the attention of**

Madam Mairéad McGuinness

EU Commissioner for Financial Services, Financial Stability and Capital Markets Union

Brussels, 27 July 2022

**Ref.: Towards “Bias-Free Advice” for Retail Investors**

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Dear Madam Commissioner McGuinness

I am writing to you in my capacity as Managing Director of BETTER FINANCE, the [European Federation of Investors and Financial Services Users](https://betterfinance.eu/) (https://betterfinance.eu/). We are the EU-level public interest non-governmental organisation dedicated to represent the interests and defend the rights of European individual and small shareholders, fund investors, savers, pension fund participants, life insurance policy holders, borrowers, and other financial services users.

This year will be marked by a once-in-a-generation opportunity for EU citizens as “retail” investors and pension savers to have their difficult situation improved: the completion,<sup>1</sup> by your services, of the EU Strategy for Retail Investors. For BETTER FINANCE, its stated objectives, including “ensuring access to bias-free advice”,<sup>2</sup> are very relevant and critical for investor protection and for the success of the Capital Markets Union project.

In order to achieve the Capital Markets Union and ensure “bias-free advice” – and as also recommended by the 2020 High-Level Forum on the Future of the Capital Markets Union – BETTER FINANCE proposes a staggered approach. EU law must start with:

1. Harmonising EU investor protection rules across all EU retail investment product sectors, by extending the MiFID conflict of interest and product governance rules (currently only applicable to securities and investment funds – i.e. to less than a quarter of EU households’ financial savings) to the other retail investment product categories (life insurance, etc.) .
2. Banning commissions only for “execution-only” services (which by definition do not include any “advice”).
3. Clarifying and specifying that “acting in the best interest of clients” (MiFID<sup>3</sup> and IDD<sup>4</sup>) imply the obligation to “not charge undue costs”<sup>5</sup> and to “assess, while taking into account cost (...)

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<sup>1</sup> Published in September, 2020.

<sup>2</sup> Communication from the Commission to the European Parliament, the Council, the European Economic and Social Committee, and the Committee of the Regions, *A Capital Markets Union for People and Businesses – New Action Plan* (COM/2020/590 final).

<sup>3</sup> As required under Art. 24(1) of the Directive 2014/65/EU of the European Parliament and of the Council of 15 May 2014 on markets in financial instruments and amending Directive 2002/92/EC and Directive 2011/61/EU, OJ L 173, 12.6.2014, p. 349–496.

<sup>4</sup> As required under Art. 17(1) of the Directive (EU) 2016/97 of the European Parliament and of the Council of 20 January 2016 on insurance distribution, OJ L 26, 2.2.2016, p. 19–59.

<sup>5</sup> As required under Art. 22(4) of Commission Directive 2010/43/EU of 1 July 2010 implementing Directive 2009/65/EC of the European Parliament and of the Council as regards organisational requirements, conflicts of interest, conduct of business, risk management and content of the agreement between a depositary and a management company, OJ L 176, 10.7.2010, p. 42–61.

whether equivalent (...) financial instruments can meet their client's profile",<sup>6</sup> ("value for money").

Given that, since the beginning of your mandate, BETTER FINANCE as the dedicated EU-level representative organisation of citizens as "retail" investors had not yet had the opportunity to meet with you in person, I wish to kindly propose a meeting with BETTER FINANCE's President, Ms. Jella Benner-Heinacher (also Chief Managing Director of the leading German individual investors' association), myself, and relevant members of our Brussels office, to present to you our recommendations in more detail.

We truly hope that your schedule will allow to meet with the representatives of EU "retail" investors on such an important and unique topic in the near future.

Thank you for your time!

Yours sincerely,

Guillaume PRACHE  
Managing Director of BETTER FINANCE



C/c:

Ms. Katherine Power, Member of the Cabinet of EU Commissioner Mairéad McGuinness

Mr. Florian Denis, Member of the Cabinet of EU Commissioner Mairéad McGuinness

Mr. Nicolo Brignoli, Member of the Cabinet of EU Commissioner Mairéad McGuinness

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<sup>6</sup> As required under Art. 54(9) of Commission Delegated Regulation (EU) 2017/565 of 25 April 2016 supplementing Directive 2014/65/EU of the European Parliament and of the Council as regards organisational requirements and operating conditions for investment firms and defined terms for the purposes of that Directive, OJ L 87, 31.3.2017, p. 1–83.