BETTER FINANCE

Assessment of the EU Public Authorities' Reports on Costs and Past Performance of EU Retail Financial Products

A **BETTER FINANCE analysis** of the reports[3] prepared by the European Supervisory Authorities (ESAs) on the costs and past performances of long-term savings and pension products distributed to retail financial services users in the European Union.

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BETTER FINANCE, the European Federation of Investors and Financial Services Users, is the public interest non-governmental organisation advocating and defending the interests of European citizens as financial services users at 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.

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[3] ESMA Annual Statistical Report – Performance and costs of retail investment products in the EU; EIOPA – First Report: Costs and past performance (December 2018); EBA – Report on costs and past performance of structured deposits.

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EXECUTIVE SUMMARY

Among the new priority actions set forth by the EC in the CMU Action Plan[4] to foster retail investments was the request to the ESAs to issue recurrent reports on the costs and performance of retail investment products. According to the EC, the reports of the ESAs would ultimately "*contribute to the objective of the CMU Action Plan to foster the participation of retail investors in capital markets by supporting the assessment of the net return of retail investment products and the impact of diverse fees and charges*".[5]

On October 13, 2017, the EC issued the request to the European Insurance and Occupational Pensions Authority (EIOPA), the European Securities and Markets Authority (ESMA) and European Banking Authority (EBA). The mandate to the ESAs is to report on the gross, net and real net historical returns, and on costs at product-category level, for the "main categories of retail investment, insurance and pension products", namely:

- Retail UCITS (Undertakings for Collective Investment in Transferable Securities) and AIFs (Alternative Investment Funds) and Structured Retail Products (SRDs) under the remit of the European Securities and Markets Authority (ESMA);
- Insurance-based Investment Products (IBIPs) and Personal Pension Products (PPPs) in the scope of the European Insurance and Occupational Pensions Authority (EIOPA); and
- Structured Deposits (SDs) covered by the European Banking Authority (EBA).

Regrettably, **the reports only cover a very small fraction of the €20 trillion retail market in the EU,** staying limited to:

- A small part of the life insurance and pension products, the number one product category used by EU citizens with 39% of total financial savings:
  - only 21% of life insurance products ("IBIPs"), and not with the required last 10-year time frame (only 5 years), with mistakes and surprisingly high returns for "profit participation" products;
  - almost nothing on Personal Pension Products ("PPPs");
  - nothing at all on occupational pensions;
- Some investment funds (which all in all represent only 8% of EU households' financial savings): "retail" UCITS funds in just 14 Member States, nothing on AIFs which are widely sold to European individuals; and
- nothing on bank structured products, and - more importantly - on bank savings accounts, the number two financial savings product for EU households (28% of total). One can argue that those may not be adequate for long-term needs, but they are actually used as such by many citizens.

The data as requested by the EC was to be gathered primarily from the disclosure and reporting requirements pursuant to EU law and to be accompanied by performance information compared to market performance (benchmark indices). The reports were also required to include recommendations, including with regard to the usefulness of the various disclosure documents. Acknowledging the difficulties in availability and granularity of data stemming from regulatory reporting requirements, the EC allowed for pre-existing (but incomplete) databases to be used to complement the datasets. If the first and second sources proved insufficient to gather the necessary information, the EC allowed as an exceptional solution the "*collection of limited sample of data from the product manufacturers*". Concerning the track

[4] *September 2015 CMU Action Plan*, https://eur-lex.europa.eu/legal-content/EN/TXT/?uri=CELEX%3A52015DC0468.
[5] European Commission: Request to the European Supervisory Authorities (EC's request) to report on the cost and past performance of the main categories of retail investment, insurance and pension products, Ref. Ares(2017)5008790, 13/10/2017, page 1.

record for investment products, the EC request also allow for national supervisory authorities' or third-party providers' databases as a source of data.

Unfortunately, the reports lack concrete recommendations, in particular with regards to the usefulness of the current EU disclosure documents (the PRIIPs KID for example) as requested by the EC. This is all the more unfortunate since the 2017 *EC Report on the Distribution systems of Retail Investment Products across the European Union* already failed to propose a way forward as regards i) identifying ways to improve the policy framework and intermediation channels so that retail investors can access suitable and cost-effective products on fair terms, ii) providing an assessment of how the policy framework needs to evolve to benefit from the new possibilities offered by online-based services and fintech.

Moreover, the "next steps" part of the reports is also inconsistent with last month's consultation document from the same ESAs (December 2018)[6] on improving the PRIIPs KID by proposing to reinsert a standardized disclosure of last 10-years performances compared to benchmarks. Such an ESAs' proposal would nevertheless solve many of the obstacles faced by EIOPA for life insurance products.

As the more detailed analysis by BETTER FINANCE proves, even though the ESAs are legally required (article 9(1)(a) of their founding Regulations) to collect, analyse and report on consumer and market trends with the aim of "promoting transparency, simplicity and fairness in the market for consumer financial products or services across the internal market", they have not done so until now as far as performances and costs are concerned.

Following the first assessment of these studies, one has to conclude that not only the consumers, but also the Public Supervisors are left in the dark as regards both future and past performance of long-term retail savings. The ESAs acknowledge the nature of "work in progress" of these reports and declare further consultation and collaboration with stakeholders so that challenges are mitigated, and disclosure is enhanced through the forthcoming reports.

Moreover, they themselves admit to having failed to provide consumers with a broader picture of the performance and costs of retail products needed for raising their participation in capital markets and that the current reports are "*more suited for regulatory and supervisory purposes than as an input for retail consumers*".[7]

BETTER FINANCE is again very much willing to help the ESAs to better fulfil their legal mandate to collect, analyse and report on the past performance and fees of the consumer products under their supervision.

FOREWORD

Providing an access to relevant investment product data for the retail financial services users is one of the key steps towards restoring confidence and trust in the financial intermediation industry and reconnecting EU households to capital markets. In addition to that, objective and comparable information on products' costs and past performance that would facilitate financial services users' decision making process is crucial for a well-functioning "*Capital Markets Union for growth, jobs and citizens*".

[6] Consultation paper, https://eiopa.europa.eu/Pages/Consultations/Joint-Consultation-Paper-concerning-amendments-to-the-PRIIPs-Kid.aspx; BETTER FINANCE's response https://betterfinance.eu/publication/better-finances-response-to-the-joint-consultation-paper-concerning-amendments-to-the-priips-kid/.
[7] EIOPA Report, page 6.

Taking into account two last editions of the EU Consumer Markets Scoreboard (2015 and 2018), where the financial services industry ranked as one of the lowest in terms of confidence and trust of EU citizens, BETTER FINANCE believes that it is of utmost importance that EU financial supervisory authorities disclose the state of the pan-European market for retail investment, insurance and pension products.

In fact, BETTER FINANCE has been asking the EU Commission to request the ESAs to analyse and disclose the costs and performances of retail financial products already for 5 years. BETTER FINANCE's public request was based on the *Report on the Real Returns of Private Pensions* (2014), where the actual return (net of charges, taxes and inflation) of pension savers in three countries was calculated and disclosed. This was part of the part of the policy recommendations published by BETTER FINANCE[8] in April 2015 on the "Capital Markets Union" (CMU) EU initiative. This recommendation was endorsed by the EC in the September 2015 CMU Action Plan.[9]

In light of the abovementioned, BETTER FINANCE welcomes the reports presented by the ESAs as a first step in the right direction and sympathises with some of the challenges encountered by the ESAs concerning data availability. However, the reports fall short of meeting their objective and of fulfilling the European Commission's request. This situation raises questions about the fulfilment of the investor and consumer protection mandate of the European Authorities.

I. ESMA Report on retail investment products

BETTER FINANCE welcomes the report from ESMA on the cost and performance of retail financial investment products in the EU that provides an initial mapping of the current state of the market concerning UCITS, AIFs and structured retail products (SRPs). This annual statistical report complements the other valuable research releases by ESMA – i.e. the Trends, Risks, and Vulnerabilities bi-annual reports – constituting an improvement on transparency and information disclosure for EU citizens in their quality as financial services users.

I.1. Challenges

BETTER FINANCE sympathises with difficulties the ESMA research team faced elaborating this study. To begin with, the EU market for mutual funds and retail investment products is significantly fragmented among national lines, resulting in a very high number of financial products that fall under the scope of the report. Second, in terms of EU disclosure requirements on costs and track record for investment products, only the UCITS KIID provides the necessary information in a standardized and comparable manner, whereas the other 10,000 AIFs and approximatively 5 million SRPs fall under the PRIIPs KID, except where national legislation obliges AIF managers to produce a KIID.

[8] BETTER FINANCE CMU Briefing Paper 2015, http://betterfinance.eu/fileadmin/user_upload/documents/Research_Reports/en/CMU_Briefing_Paper_-_For_Print.pdf.
[9] CMU Action Plan (n 2).

I.2. Areas for improvement

Nevertheless, the report remains disappointing in terms of the scope and substance. BETTER FINANCE considers that a large part of the methodological and coverage limitations indicated in the report are not justified, thus, in our view, ESMA did not fully comply with the EC request. Second, the reporting efforts were significantly disproportionate between ESAs (to the detriment of EIOPA), especially taking into consideration the market size, diversity and complexity of product offerings, as well as data availability (in particular data originating from disclosures and reporting already required by Union law, and from private commercial data bases).

I.1.(a) The scope of the report

The report mentions that, due to limitations on data quality and collection, it merely provides "*an overview of the respective markets*"[10] for retail AIFs and SRPs. A mere overview is not the issue of the EU request and CMU Action, which is looking to identify the past performances and costs of these products. Therefore, the report analyses "retail" UCITS, which by numbers represent a very small part of the EU "retail" financial savings. However, the annex on methodological limitations indicates that "*data collected for the end of 2017 cover around 80% of the AIFs managed or marketed in the EU*", which is more than the market coverage of UCITS, respectively 76%. On the coverage of the UCITS market, BETTER FINANCE is disappointed to see that: first, only 14 Member States from the Eurozone and UK are covered and, second, that this scope limitation on the "retail" UCITS sector is not prominently highlighted in the report nor mentioned in the Methodological annex.

With regard to retail AIFs and SRPs, the report mentions poor data quality based on regulatory reporting to national competent authorities (NCAs), which is inconsistent with the methodological premise of the report, namely that of using a commercial database as the source of primary information. BETTER FINANCE raises the question of why did ESMA use the commercial database for the retail UCITS part, but not for retail AIFs and SRPs?

I.2.(b) The data sources

The ESAs reports on costs and performances of retail financial products constitute a blatant evidence that the PRIIPs KID is useless for providing the necessary information required by the EC mandate. However, the UCITS exemption under Article 32 of the PRIIPs Regulation still allows UCITS managers to use and update the Key Investor Information Document (KIID) which provides for aggregated, standardized and comparable information on the main categories of costs (ongoing costs, subscription and redemption costs and performance fees separately) as well as for the historical returns of the fund and of its benchmark(s).

Based on the EC request, the ESAs were required to base their reports on the reporting disclosures under the EU law, hence in this case the UCITS KIID for UCITS was supposed to be "*considered as the default source of information for costs at product level*"[11]. ESMA used a commercial database in order to aggregate data on UCITS, even though the EC request allows using pre-existing databases, including commercial ones in case of difficulties stemming from regulatory reporting (granularity, comparability of data). Yet, ESMA did not obtain the entire data necessary for the entire retail

[10] ESMA Report, page 5.
[11] EC Request to the ESAs, page 4.

UCITS market, noted a different taxonomy of the commercial database on cost information to that of the UCITS KIID, and for the retail AIFs[12] and SRPs the commercial database was not used.

I.2.(c) Methodological limitations

First, in spite of the EC request and BETTER FINANCE's long-lasting requests to enforce the mandatory and standardised disclosure of long-term past performance alongside the benchmark past performance, regrettably the report does not provide past performance comparisons with any benchmark or another suitable objective indicator. The UCITS KIID obliges managers to do so (Article 7(1)d and Article 10 of the KIID Regulation). Second, even if the EC request did not specifically demand compounded returns, it is a disappointment to see the misleading presentations (graphs) made by ESMA on the UCITS performances. A graph such as graph 11would give the average retail investor an impression different from the reality, as the returns thereof do not show a cumulative performance, as retail investors do not know how to compound returns.

Last, the report indicates that, "*regulatory requirements do not allow to cover the entire time period*", i.e. 2008-2017, albeit the UCITS KIID requires past performance disclosure on 10 years (or since inception, if the fund is less than 10 years old).

I.2.(d) Lack of recommendations

BETTER FINANCE would have expected ESMA to put forward at least two strong conclusions on the basis of this report:

- first, that there is a dire need to establish an independent pan-EU database with information on costs and past performances, based on EU disclosure requirements – as it exists in the US, to enable retail investors comparing products;
- second, that PRIIPs KID makes it impossible even for Supervisory Authorities to compare the performances and costs of products at EU level. In the context of
    - (i) the confirmed significant impact of costs on the final returns for retail investors,
    - (ii) the fact that retail investors pay twice as much as institutional ones[13] and
    - (iii) the ultimate goal of the EC mandate that aimed to ensure that disclosures and reporting "effectively support retail investors in their investment choices",[14] the report fails to provide any concrete recommendations to that effect.

Indeed, ESMA surprisingly ignores its own excellent recommendation published two months earlier (November 2018) in the ESAs consultation paper on amending the PRIIPs delegated Regulation, to include the disclosure of standardized past 10-year performance alongside the benchmark performance in the PRIIPs KID. Indeed, by end of this year latest, ESMA will be deprived from the UCITS KIID and left with no source at all from the disclosures required by EU Law, as this document will be replaced by the PRIIPs KID which contains no such information on past performance and cost.

[12] Moreover, as regards AIFs ESMA underlined that "*The main issues encountered* […] *rely both on AIFs return series being too short* […] *and data being highly confidential or not available*". ESMA report, page 33, left-hand side, 3rd paragraph.

[13] ESMA Report, page 16.

[14] EC request, page 2.

II. EIOPA Report on costs and performances of insurance products

"It is a disappointment to observe that, after 4 years from the launch of the CMU project, the EU supervisor on insurances is still blind when it comes life-insurance products' past performance and costs"

G. Prache, Managing Director of BETTER FINANCE.

II.1. Challenges

First, prior to 1 January 2018 there was no harmonized piece of EU legal requirements in the field of insurance-based investment products (IBIPs), therefore reporting requirements were strictly subject to the different national regimes. Second, the life insurance market in the EU has no commonly agreed reporting standards. Pre-contractual information disclosure on costs was scarcely available at the time of mapping the costs in the EU insurance market. Last, but most important, the pan-European mandatory disclosure documents, the packaged retail and insurance-based investment products' (PRIIPs) key information document (KID) proves useless as a standalone regulatory reporting obligation and for comparison purposes for the purpose of this study, in particular since:

- the PRIIPs KID does not disclose actual costs, but the "reduction-in-yield" of one of the four future performance scenarios and for specific and custom future time holding periods, and
- the PRIIPs KID does not disclose any past performance information.

The EC however surprisingly still requested the PRIIPs KID to be the **primary data source** for IBIPs and those personal pension products, included in the PRIIPs Regulation's scope. But the entire data sample of EIOPA for the purpose of its report is based: either on KIIDs, deriving from the unit-linked products that have UCITS as underlying units, or- on questionnaires (information requests) to product manufacturers, according to national statutory reporting standards.

These findings raise significant concerns since the EU life-insurance market is not only the largest (by technical provisions, number of subscribers and providers), but life insurance & pensions represent more than four times the value of investment funds in the financial balance sheet of EU households. Moreover, the life-insurance market is by essence long-term and is used by most EU citizens as a retirement provision vehicle.

II.2. Areas for improvement

II.2.(a) Data sources

The EC's request was to base the reports *as far as possible* on information originating from disclosure or reporting obligations under the EU acquis. Therefore, in case of EIOPA the main data source was the PRIIPs KID. However, BETTER FINANCE already in 2017 pointed out to the inconsistency of the EC request since the EC itself decided to replace UCITS KIID by the KID (Key Information Document) and at the same time eliminate any disclosure of past performance and actual cost information in this new KID, despite the strong opposition from all major user-side representatives.[15]

EIOPA could have asked national supervisory authorities to provide data from their databases (if available) or third-party providers (if available), since it was the secondary option. But apparently EIOPA had to rely only on the third data source (which should be limited) to directly obtain information from the providers. It did not target the entire EU market as per the EC request, but asked for "*a sample of firms and products selected by the NCA for each Member State, according to common principles*".[16]

"*EIOPA considers the information in the PRIIPs KID to be a good starting point, but it needs to be supplemented by additional past return and cost breakdown data*".[17] BETTER FINANCE fails to see how could the PRIIPs KID possibly be "*good starting point*", as it does not include any of the information requested by the EC!

Also, the choice of reporting period is too short and misleading, since the five-year period of 2013-2017 contained two "bull markets", both for bonds and equities.

II.2.(b) Disclosure of findings

BETTER FINANCE is disappointed with the non-compliant practice of EIOPA of ***censoring*** cost information by Member States and years. Some graphs in the report either do not have a defined axis for the subject values, or either EIOPA anonymized jurisdictions by coding them.

BETTER FINANCE (with much more limited human and financial resources) has for years already been working on increasing the transparency and awareness of savers of the real returns delivered by long-term and pension savings, and fully discloses aggregate returns by Member State.

II.2.(c) Market representativeness

As indicated above, the fact that only 21% of the EU life-insurance market is analysed and reflected in the cost and past performance computations in the report, reduces the value of the findings very much. In fact, EIOPA's report has a more abstract nature, describing the gaps in reporting requirements, differences in national implementation, and the limitations of the mapping exercise.[18] Out of the 140 responses from undertakings, only 67% of products have been included in the analysis, representing a total of 163 products broken down in 351 funds.

What is more, based on the limitations identified by EIOPA and exclusion of 33% of products due to inconsistent reporting, the sample analysed in the report reflects unequal weightings in the life-insurance market to the profit-participation share, which renders unrealistic gross returns on the market. The breakdown by Member states is again not disclosed by EIOPA.

With regard to the personal pension products (PPPs), the report comprises only 10 providers (broken down to two types of products – unit-linked and "profit-participation" – and 24 funds)

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[15] BETTER FINANCE, Press Release: ESAs finally asked to report on the cost and past performance of long-term savings products, https://betterfinance.eu/publication/esas-finally-asked-to-report-on-the-cost-and-past-performance-of-long-term-savings-products/.
[16] EIOPA Report, page 13.
[17] Ibid, page 38.
[18] Ibid, page 37.

from 3 EU Member States. BETTER FINANCE's annual pension savings report analyses pillar III savings products from 16 Member States on costs, performances and taxation regimes. What is more, the PPP-section excludes a very large number of supplementary individual retirement provision products.

Given the important limitations, notably "*in view of its market coverage*" the report made by EIOPA is only a pilot study and "*is more suited for regulatory and supervisory purposes than as an input for retail customers themselves*".[19]

Last, 17% of the sample undertakings provided *passively managed funds*, whereas ESG-products are "*fewer than expected*". These important findings (although based on only one fifth of the life insurance market) would require more investigation as to the explaining factors.

II.2.(d) Return computations

BETTER FINANCE identifies several issues with regard to the return computations of "*unit-linked*" and "*profit-participation*"[20] life insurance products. The overall RIY cost weighted figures are obviously too high and too close to those of unit-linked products, respectively too far from the weighted average RIY costs of "*profit-participation*" products. This is inconsistent with the respective weights of the two categories in the EIOPA sample (see EIOPA table page 22).

In addition, BETTER FINANCE expresses its disappointment to see that a very short part of the report is dedicated to track records (gross and net returns), but a considerable part to the *reduction-in-yield* computations.

Based on EC's request to report on historical returns, BETTER FINANCE raises two further questions: why doesn't EIOPA report on *inflation adjusted* returns (or, real returns) and why aren't the product categories compared with an index or other suitable indicator, as the mandate from the EC required?

What is more, the lowest "PP" return in the last five years according to EIOPA is 2.31%. In France, where the life-insurance market is the biggest one for those contracts (capital-guaranteed), the net average return in 2017 was 1.8%,[21] which makes BETTER FINANCE question the validity of these results.

II.2.(e) Report conclusion

BETTER FINANCE wishes to express its strong disappointment to the half page "*next steps*" section of the report, which merely indicates that it will "*work further on developing its methodology and approach for future reports*".[22] We believe this very vague approach to be thoroughly inconsistent with the proposal of the Joint Committee of the ESAs, launched in November 2018, to provide technical advice to the EC on amending the delegated acts to the PRIIPs KID and restore past performance disclosure in the aforementioned document. It is even more relevant for the case of EIOPA which needed to rely primarily on KIDs on obtaining information on the track record of

[19] Ibid, page 7.
[20] BETTER FINANCE recommends using another name than "profit-participation" for the major life insurance product category in the EU, which is capital guaranteed products. The fact that they provide a participation to profits does not distinguish them from unit-linked contracts. This EIOPA labeling seems to be inspired directly from the UK labeling of capital guaranteed life policies called "with profit" policies there.
[21] BETTER FINANCE, 'Pension Savings: The Real Return" 2018 edition.
[22] EIOPA Report, page 36.

insurance products, yet no connection is made to the dire need of amending the KID to include standardized past performance information as proposed by EIOPA then.

III. EBA report on cost and past performance of structured deposits

The report presented by the EBA is the only one that actually totally misses the EC requests: it does not actually report any costs and past performances of retail financial products in the remit of their competence. Due to the scarcity or unavailability of data at a large scale, the EBA notes that even analyzing the current state of the market, at a macro level, has been difficult and was not achieved.

Regarding the scope of the products subject to the analysis, the EBA followed the mandate from the EC and focused only on structured deposits, although this is not by far the main retail investment or savings product sold by the banking sector to the general public.

At this stage two aspects can be pointed out. First, the EBA considers the effort of aggregating data on the structured deposits (SDs) market in the Banking Union (BU) is unjustified and disproportionate, albeit due to several reasons.[23] Second, he EBA considers the process of approaching the industry directly and requesting data would be "*burdensome and expensive for the EBA to pay*". By such statements, EBA grossly ignores its legal mandates with regard to EU citizens as bank services users. Besides, BETTER FINANCE does not see this effort at all disproportionate, as it could have been done on a representative sample of the credit institutions and would allow the supervisory authority to properly measure and then supervise the market and determine those "*segments and regions where investors are in a sub-optimal situation and identify those issues which call for careful analysis*".[24]

"*It is a shame. The EBA does not even know – and never tried to report on – the past performance of bank savings accounts in the EU, the biggest financial savings of EU households. This is despite its clear legal mandate to collect, analyse and report on consumer and market trends (the CMU action explicitly refers to this legal duty as proposed by BETTER FINANCE in 2015)*".

Guillaume Prache, Managing Director of BETTER FINANCE

It is worth noting that in the Recommendations part of the report EBA points out to the fact that it will "*reassess whether, taking into account the principle of proportionality, the size of the market justifies the effort that would be required to issue the EC reports*"[25]. In this context, it is even more important the re-examine the EC request to the EBA and include bank savings accounts in the

[23] First, that there was (before 1 January 2018) no pre-contractual information disclosure document for SDs at a pan-EU level; second, that where applicable regulatory reporting varies greatly from one jurisdiction to the other; last, that colligating with national competent authorities (NCAs) would not improve the situation, as these "*do not seem to have quantitative information on the size of the market for SDs*"; last, that not even private or commercial databases do not have the necessary data and at a representative level in order to issue such a report.
[24] EC Request to the ESAs, page 2.
[25] EBA Report, page 22.

scope. For the time being it is evident that EBA remains voluntarily blind on the cost and past performance of the products it is supposed to supervise. Thus, it grossly violates its legal mandate, as specified above.

POLICY RECOMMENDATIONS

BETTER FINANCE proposes seven recommendations for policy action and for improving the methodology following the publication of these reports. These recommendations are in line with BETTER FINANCE's 2019-2024 ten key priorities and with the recommendations put forward every year in the Report on the Real Returns of long-term and pension products and aim for the 2nd iterations of ESAs reports to truly deliver for EU savers and investors, i.e. allow them to better interpret the information at product level and facilitate their decision-making process.

1. Restore and standardize past performance disclosure requirements for all long-term and retirement savings products in the EU

- *The EC and ESAs should stick to their recent proposal to align the PRIIPs KID with the UCITS KIID past performance and cost disclosure requirements.*

Unfortunately, the three reports of the ESAs are a solid confirmation of a dire need to ***standardized cost disclosure*** and ***presentation of past performance is key for retail investors***.

As a matter of principle, the adoption of the PRIIPs KID was a step in a good direction in terms of investor protection and pre-contractual disclosure. The reports have correctly identified that a vast majority of the retail market was not covered by any harmonized piece of EU legislation prior to the entry into force of the PRIIPs Regulation (1 January 2018).

However, the failure of the PRIIPs KID stems from the incoherent and misleading methodology on information presentation. **Neither of the ESAs were able to use the PRIIPs KID on a standalone basis for the purpose of this reporting exercise**.

We consider the initial reports of the ESAs crucial in the debate on the PRIIPs KID: the only market for which reporting on costs and past performance is possible is the UCITS and AIFs' where the UCITS KIID regime applies. Apart from that, the PRIIPs KID proved useless even for the regulator for its mandate on market supervision.

If the pan-EU supervisory authorities weren't able to compare information on products based on the PRIIPs KID, how could retail investors be expected to do it? Costs should be presented based on a clear taxonomy and performance should reflect compounded historical returns (track record), on at least 10 years or since inception.

2. Address important omissions in the scope of the EC's request to the ESAs

- *The EC should amend the reporting scope of its mandate to the ESAs and include occupational pension plans (open and closed-ended investment funds – IORPs – and insurance-based investment products) as well as bank savings accounts. The EC should also set out clear targets to be validated or infirmed by these reports, i.e. legislative or non-legislative actions.*

We believe the EC request was not ambitious enough, as it allowed for several compromises on the part of the ESAs for the sake of rapidly releasing the reports. First, that the reports were given a pilot nature from the outset, omitting pillar II retirement provision, which constitutes one of the largest segments of long-term savings in the EU.

Second, the EC and the ESAs should change to a principle-based assessment when mapping out long-term retail investment or savings products in the EU. BETTER FINANCE is disappointed to see that bank savings accounts (transferable deposits and term deposits) are excluded from the scope of EBA, although retail savers rely on banking products for voluntary long-term and retirement provision as acknowledged by the ESAs themselves.[26]

Therefore, ***the EC and ESAs should look at how a product is used by the retail sector rather than how it is marketed to it***.

3. Improve access to comparable, fair, clear and not misleading information

- *Establish pan-EU databases for retail investment or savings products comprising at least cost, past performance, asset value and domicile, to be kept and maintained by the ESAs.*

All ESAs experienced significant difficulties in gathering and aggregating data on the markets they supervise. A part stems from the improper PRIIPs KID, which impedes instead of enhancing information disclosure. Even so, for many market segments the data is not collected at regional or EU level.

Therefore, the EC should request the ESAs to establish and maintain own databases of information at least on costs, past performance of the products in the scope of their competence. Symmetrically, the ESAs should have proposed means to do the aforementioned, otherwise the methodological limitations experienced with this exercise will be as recurrent as the reports themselves.

4. Adapt the EC request in line with investor protection principles

- *The EC should adapt its request to the ESAs to increase transparency and information disclosure and provide investors with information at product-manufacturer level.*

BETTER FINANCE finds it unacceptable that the EIOPA report, albeit very limited in scope and data, censors data presentation on Member States, although it should be reporting product-category both at EU and national level, according to the EC request.

[26] Please see the ESMA report on page 6: "*At a country-by-country level, the structure of household financial assets is heterogeneous. On average currency and deposits account for around 30% of assets with a range from 14% in Sweden to 61% in Greece. There are other Member States with a share of deposits above 50% including Czech Republic and Ireland*".

This is a significant breach of the investor protection mandate of the ESAs prescribed in Articles 8 and 9 of the founding regulations of the ESAs concerning transparency and disclosure of information.

The EC should support not only full transparency through the report, but also should incentivize the ESAs to show at least at product level the information on costs and past performance. After all, the purpose of the Single Market for financial services is cross-border comparison and distribution of financial products.

5. Streamline product offering and incentivize efficient allocation

- *The ESAs should be given more power to ban toxic products, restrict the use of some products in "retail" markets and reduce the excessive number of UCITS in the EU.*

The markets for UCITS and AIFs are very fragmented and the products – especially AIFs and purely "retail" UCITS are rarely distributed cross-border. The ESAs should be granted more powers to implement the consumer protection mandate, simplification and supervisory convergence, as well as make full use of the product intervention powers to ban toxic investment products targeted at retail investors.

The growth of the market for low cost index funds and ETFs is significant but still not much promoted to individual savers. Both the EIOPA and ESMA reports show that, after fees, returns for passive products are higher than active ones on average over the mid and long-term horizon. The ESAs and the NCAS should put an end to the discrimination of UCITS-ETFs and other low-cost index products at the retail distribution-level.

6. Improve long-term and sustainable value creation

- *The EC should adapt its mandate and the ESAs should work on the methodology for future reports so that sustainable finance is taken into consideration and properly included in the recurrent reports.*

The ESAs have not included a section or criteria in their reports on sustainable finance or ESG-factored products, although the policy initiative is to map the products that apply these criteria and reorient capital flows to "green" projects.

The EC should include in its mandate a point on developing a methodology that includes sustainable finance in the screening and reporting of retail investment products in the EU under the scope of the ESAs, where available.

7. Promote investor education as key to the success of a real CMU

- *Improve the level of investment advice at the point of sale and educate or enhance the level of financial literacy of investors.*

Financial literacy is paramount for restoring trust in the financial industry, increasing market competitiveness and investor awareness. Several surveys (such as OECD) show that less than 40%

of the adult population understands basic finance notions, making them unable to critically view and compare the complex offering of products.

What is more, albeit the clear wording of the EC request, the ESAs have completely ignored the mandate to present comparisons with market indices (benchmarks) or other suitable indicators. This is an indirect endorsement of the "absolute return" and "peer group" strategy used by the industry, which focuses on how a product is performing compared to itself or other products instead of comparing it with what the market is returning.

The ESMA report quotes a source showing the assets of UCITS have grown almost twofold in the past seven years, but the level of fees has remained constant.[27] This means that fees charged to investors have doubled, but performances still seldom overperform the market. Therefore, investors need to be better educated and informed on the basic concepts of finance, coupled with independent and competent investment advice.

If retail investors are unaware of the need to save for the future, are unaware of the poor returns of too many investment products, and of the effect of charges (a couple of times higher than in the US counterpart) and of inflation, nobody can expect a fundamental change in the offer/sale side. More concerning is the fact that no one can except an improvement in defusing the pensions time-bomb.

The **BETTER FINANCE** team.

[27] ESMA Report, pages 10 and 13.