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Consultation on technical details of a possible European crisis management framework

Reply of the European Federation of investors

Introduction

EuroInvestors (the European Federation of Investors or EFI) was created in the summer of 2009, following the financial crisis which demonstrated the limits of the almost exclusive dialogue between regulators and the financial industry, largely ignoring the user side. EFI aims at representing and defending at the European level the interests of financial services users in order to promote training, research and information on investments, savings, borrowings and Personal Finances of individuals in Europe, by grouping the organizations pursuing the same objectives at a national or international level. Already about 45 national organizations of investors and other financial services users have joined us, and EFI already represents about two million European citizens.

This consultation from the European Commission is part of the European Authorities efforts to prevent any future financial crisis of the magnitude of the 2008 one.

Most questions are obviously not addressed to individual investors and savers, but to professionals. Therefore, EFI will not reply specifically to these questions but provide a general reply.

1. EFI believes the "too big to fail issue" is not really addressed on a preemptive basis.

The "too big to fail issue" was identified as one of the key problems arising from the 2008 financial crisis.

This is an even bigger problem in Europe than in the USA because:

- The USA have now passed regulations to prohibit commercial banks (which have the unique and free privilege of access to central banks funding) from proprietary trading

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activities. So far European Authorities do not seem to even consider such action to reduce the ex ante risk of excessive bank size and systemic impact.

- Contrary to the USA (a legacy of the Glass Steagall Act that was repelled in 1999), a majority of the largest European based asset management groups are 100 % affiliates of commercial banks, which also own very large insurance companies ("universal" banking approach). Besides the conflict of interests these relationships generate, they also make European Governments more dependent upon commercial banks which are now the biggest holders of European Government debt, either directly or through their asset management and insurance affiliates. In fact, according to the Financial Times, the first "quantitative easing" actions of the European Central Bank in 2010 consisted in using public funds to help some big commercial banks to unload more risky Euro Government bond portfolios (Greek, Irish, etc.) that these banks lately found themselves over exposed to.

- This problem is increased by the re intermediation of capital markets in Europe, helped by the MiFID (we refer to our reply to the MiFID review consultation). Indeed, the share of non financial end investors (individual and institutional) and of non financial issuers in capital markets (equity and fixed income) has been shrinking steadily to a quite low share.

EFI is concerned that the EC is not even alluding to this serious problem, and does not propose pre-emptive measures to solve the "too big to fail" issue. We are aware of the preventative powers of the Supervisor that could in theory enable it to require such structural changes as selling assets or businesses from any European bank. But that is very far from really addressing the problem described above.

2. Saving very large financial institutions should not be done at the expense of financial services users.

The 2008 financial crisis has shown that the first victims were first the non insider shareholders in banks and other financial institutions, then the consumers and the taxpayers. On the other hand, to our knowledge, not one financial institution, financial executive or other entity responsible for the crisis in Europe has been required to indemnify any victim.

The consultation paper also does not quantify the full cost to Governments and taxpayers of the 2008/2009 rescue of the European "too big to fail" institutions (RBS, Fortis, ING, Dexia, etc.).

At the very least, these "too big to fail" financial institutions should pay an insurance premium to Governments to cover the risk and cost of failure.

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EFI also failed to see proposals in this consultation document that will balance the need to address the "too big to fail issue" with the need to protect financial services users' interests.

Again, in the USA (but also in the UK and in Belgium for example), Regulators have become aware of the conflict of objectives between the prudential control and the users protection. They have (or are about to) opted for the so-called "twin peaks" financial supervision approach.

Unfortunately, the very recent reform of the European financial supervision did not address this critical issue, and <u>the financial services users' protection comes only as the sixth and very last objective of the three new European financial authorities (ESMA, EBA and EIOPA)</u>. This is a major concern for the hundreds of millions of EU citizens and financial services users who are suffering from the financial crisis.

This Consultation also does not address this open EU level issue.