



European Association of Co-operative Banks
Groupement Européen des Banques Coopératives
Europäische Vereinigung der Genossenschaftsbanken

EACB comments on the communication of the European Commission on Packaged Retail Investment Products

17 September 2009

The **European Association of Co-operative Banks** (EACB) is the voice of the co-operative banks in Europe. It represents, promotes and defends the common interests of its 28 member institutions and of co-operative banks in general. Co-operative banks form decentralised networks which are subject to banking as well as co-operative legislation. Democracy, transparency and proximity are the three key characteristics of the co-operative banks' business model. With 4.200 locally operating banks and 63.000 outlets co-operative banks are widely represented throughout the enlarged European Union, playing a major role in the financial and economic system. They have a long tradition in serving 160 million customers, mainly consumers, retailers and communities. The co-operative banks in Europe represent 50 million members and 750.000 employees and have a total average market share of about 20%.

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AN ASSOCIATION ON THE MOVE

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General remarks

1. The European Association of Co-operative Banks (EACB) would like to thank the European Commission for the publication of its thoughts in the Communication to the European Parliament and the Council on "Packaged Retail Investment Products" (COM (2009) 204 final).
2. European co-operative banks are characterized by a decentralized network of branches with a very strong retail base serving approximately 160 million retail clients in the European Union. Co-operative banks are therefore amongst the major distributors of a large variety of retail investment products.
3. The EACB supports the efforts of the Commission that aim to establish a legal framework for selling practices to retail clients in order to enhance investor protection. We share the goal of more efficient selling practices in order to enhance investor protection. We furthermore welcome the envisaged introduction of a level playing field concerning the rules for the sale and disclosure requirements for different types of retail products. This step would overcome the current EU capital market rules that are focused on single products.
4. With the introduction of the MiFID there are EU wide rules that clearly define how retail clients should be informed when investing in certain financial products including a required assessment of the financial needs of a retail client.
5. Even though we generally welcome the outlines made by the Commission we would like to highlight that many parts of the communication are still formulated very broadly and many details remain unclear.
6. We are not in favor of any initiative which would increase existing constraints for retail banks without adding value for the customers. Also this initiative should be targeted correctly within the framework of the 'better regulation' principle and be subject to intense impact assessment surveys. Inappropriate and overly burdensome rules must be avoided by policymakers, especially taking the recent implementation of the MiFID legislation into account which increased the administrative costs for our member banks significantly.
7. We would also like to mention that the choice of retail clients is very much influenced by cultural preferences (e.g. in some countries consumers do not often take actions directly but use their banks instead). Social (pension schemes) and economical (fiscal incentives) preferences play an important role as well and differ from member state to member state.
8. In the following paragraphs we would like to provide you with some comments we have on specific areas touched in the communication:

Products in scope

9. European co-operative banks are currently providing their strong retail base with a broad variety of investment products. The envisaged horizontal approach in the field of packaged retail investment products should not result in a standardization of the offer leading to fewer products and in the end to less choice for our customers. This development should be avoided. A new horizontal directive needs to be a flexible



one in order to maintain the manifold spectrum of products that is currently offered to retail clients throughout the European Union.

10. The descriptions and definitions given by the European Commission in relation to financial products in scope are very broad and general. We understood that the Commission is currently working on clearer outlines on this matter with the objective of publishing a more specific “white list” by the end of 2009. In this respect we would like to call for a transparent approach that gives market participants a chance for comments. We support that the Commission restricts this initiative to retail clients and not to professional and/or institutional ones.
11. We assume that plain standard saving accounts as well as deposits will not fall into scope of this initiative. Unlike funds, certificates and securities they are non-negotiable. Banks – as providers of the accounts – fall under strict regulation as well as under the protection of deposit guarantee schemes. They are well known in functioning to retail clients and do not require the same disclosure obligation as securities or insurances. MiFID rules for these traditional banking products would create a disproportional burden to the every day retail business of European co-operative banks.
12. As for other products than plain vanilla deposits the level of complexity could be a valid criterion for determine wheter a product should fall in the scope of this initiative.

Key investor disclosures

13. We fully share the view of the European Commission that the Key Information Document (KID) for UCITS – currently in final consultation at the Committee of European Securities Regulators (CESR) – cannot be applied to all kind of packaged retail investment products. The KID refers to products with a high level of standardization and comparable juridical cornerstones. For most structured products this comparability does not exist.
14. Therefore we would welcome a flexible framework legislation on product disclosures. It is important that any overlapping between disclosure requirements in other legislations is avoided (e.g. respective provisions in the Directive on Distance Marketing and the Directive on Consumer Rights).
15. In relation to the current CESR work on the KID and the envisaged risk and reward indicators we would like to highlight that we are more in favor of a narrative approach when disclosing the risk aspects of a packaged retail investment product. The Commission should await the final advice of CESR on the UCITS KID before making decisions with respect to retail investment products in general.
16. Also relevant in this context is the relation between investor disclosures for packaged retail investment products and the summary prospectus according to the Prospectus Directive. From our perspective the mentioned two should not exist in parallel.
17. We do not see the need for further disclosures on costs for packaged retail investment products. The current rules in place are sufficient.



Responsibility for disclosures

18. Issuers should be responsible for the correctness of the disclosures and intermediaries should be responsible for the adequate application of them at the point of sale. For practical reasons we would like to point out that those disclosures should be limited to products that a bank is actually offering to retail clients. Otherwise the duty of producing product disclosures would be required for all types of issuers which would lead to enormous costs for financial markets in general. In any case it is important that the responsibility rules are clearly defined and that every distributor – not only banks – is covered by it.

Implementation of the initiative

19. From the experience with the very complex and costly implementation of the MiFID for European co-operative banks we are of the opinion that the MiFID should not be changed in the short term. In addition an overlapping with existing regulations should be avoided.

Conclusion

20. The EACB is aware of the challenges the European Commission is currently facing with this complex initiative and would like to highlight that it stands ready to contribute with the in-depth expertise of its experts to successful developments in the field of packaged retail investment products.

Contact:

The EACB trusts that its comments will be taken into account. For further information or questions on this paper, please contact:

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