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EUROPEAN ASSOCIATION OF CO-OPERATIVE BANKS

The Co-operative Difference : Sustainability, Proximity, Governance

EACB Newsletter

Message from the CEO, Nina Schindler

Serving around half of the EU's population, the clients of Europe's co-operative banks represent a significant part of the retail investor market. They are not only present in the economic centers of Member States, but also strongly and historically rooted in the more remote areas of Europe. The group of co-operative banks' customers is composed of digital natives and those with less affinity or less possibility to access services on-line. This makes co-operative banks well-placed to contribute to the debate on the upcoming Retail Investment Strategy.

Co-operative banks experience in recent years have delivered data signaling that enhancing investor protection by way of increasing disclosures is not optimal. Information overload together with comparability issues brought about by inconsistencies in rules on product disclosures and the costs of distribution of such products, has discouraged retail investor participation and reduced the pool of financial products.

A successful retail investment strategy should focus on simplification and harmonization of disclosures across various retail investment products and on maintaining access to financial advice across all retail investors. Europe's ESG objectives further reinforce those needs, the fulfilment of which, at least partly, can be supported by making smart use of new technologies. New technologies and new providers also add their own set of challenges to the creation of a sound retail investment strategy. It is thus clear that the development of this strategy is not an easy task. The EACB and its members however appreciate its importance and stand ready to share their experience and that of their customers and are keen to contribute to its further development.

3 Questions to
Verena Ross,
Chair, European Securities and Markets Authority (ESMA)

Verena Ross is theChair of the European Securities and Markets Authority (ESMA) since November 2021. Ms. Ross was appointed for a five-year term. A German national, she was Executive Director at ESMA from 2011 to 2021, having previously held regulatory and supervisory roles in London.

You were recently appointed to the role of ESMA Chair right as the authority published its 2022 work programme priorities, that inter alia focus on cross-cutting themes in the development of the CMU (sustainability, digital, etc), as well as, the single rulebook (reviews of MiFID II, PRIIPs etc). Which developments in these priorities do you see impacting the outcome of the Retail Investment Strategy - one of the main building blocks towards encouraging retail investor participation whilst ensuring investor protection in the EU, as highlighted under the European Commissions' 2020 CMU action plan?

Capital markets play a crucial role in modern economies and, directly and indirectly, in the life of EU citizens. The Commission's CMU action plan connects with a long history of building of the single market and is aimed at ensuring that retail investors can take full advantage of the benefits of the EU's capital markets.

Europe's financial markets are at a critical point of change due to two developments: a) the digitalisation of financial services, which increases opportunities for investors' participation, and b) the growing investor interest in financial products that incorporate environmental, social and governance (ESG) factors. Both these elements are at the hearth of the EU's strategic objectives and will therefore impact the Commission's Retail Investments Strategy and the work of ESMA in the coming years.

To provide some additional details on our priorities in these areas, on sustainable finance we will have an ambitious and comprehensive programme including working on the rules on ESG disclosures and paying special attention to the risk of "greenwashing".

On the digital transformation, it is important to allow markets and investors to take advantage of the new opportunities created by the development of technology. For investors, for example, this may translate into cheaper and easier access to markets. In addition, the digital transition also has significant advantages for regulators, particularly in the way they collect, analyse and use the data and information available. With new market developments comes the need for ensuring an appropriate regulatory framework, so ESMA will also contribute the implementation of, to name just one, MiCA – the new regulation on the crypto-asset markets, currently under negotiation.

More in general, ESMA believes it is important to support the economy and people's investments in their pensions and future finances. We will continue contributing to the single rulebook and supervisory convergence in key areas such as MiFID and PRIIPs. The aim is that national supervisors work together in a coordinated manner, building trust and reliance on each other, making sure that we achieve converged supervisory outcomes across the EU.

ESMA has been tasked with providing technical advice to the European Commission on the Retail Investment Strategy. Which in ESMA's opinion are the key areas that need to be strengthened in order to empower retail investors to invest in capital markets?

The European Commission has requested ESMA to provide technical advice on three main areas: disclosures, digital disclosures and digital tools and channels. In accordance with this mandate, ESMA has identified several priorities to empower and protect investors.

One important area is to address the information overload retail investors face. The advice will focus on addressing specific MiFID and PRIIPs disclosure misalignments, on possible actions aimed at identifying vital information that investors must see, and on facilitating user-friendly and tailored digital disclosure. Information overload is however not merely caused by regulatory disclosures, but also stems from lengthy contracts and marketing material.

ESMA's advice will suggest to tackle aggressive marketing practices by looking at whether the current framework allows for adequate supervisory responses. It will also underline that online advertising, including on social media (influencers), falls under MiFID marketing requirements.

For digital disclosures, ESMA analyses solutions to make information more "fit" for the digital age and easier to understand. This means not only looking at regulatory disclosure but also at tools used in the sales process. Gamification can for example distract investors and that may not be in their best interest.
Finally, ESMA looks at the possible opportunities and risks related to open finance, but also at investor protection risks arising from payment for order flows (PFOF). This will further build on the ESMA statement[1] which concluded that 'in light of the serious investor protection concerns raised by PFOF…, it is in most cases unlikely that the receipt of PFOF by firms from third parties would be compatible with MiFID II'.

Where do you see co-operative banks within the context of the Retail investment strategy, and how do you envisage their role in helping to transform retail savings into investments?

Co-operative banks have traditionally a strong presence in some jurisdictions, where they have been historically established. An important feature of their business model is the capacity of being present not only in financial centers but also, and more importantly, in more remote areas. Co-operative banks normally interact with a high number of retails clients and with small and medium business owners as well as with local communities.

This shows how important the role is that co-operative banks may have in such times of change in the behavior of the investors and market participants. Co-operative banks can contribute to the achievement of the purposes of the CMU and they can accompany their clients in this new environment, ensuring their protection.

The response that the EACB provided with regards to the ESMA call for evidence on retail investor protection aspects, showed an alignment with the direction that the European Commission is indicating in the Retail Investment Strategy. With regard, for example, to information overload, the need to align MiFID II and PRIIPS disclosures was well noted in the EACB response. This shows the awareness of co-operative banks on what can be beneficial for investors while at the same time ensuring their strong protection when they make an investment decision.

As well underlined in the intervention that Nina Schindler made during the ESAs Consumer Protection Day in October 2021, the widespread presence of co-operative banks and their strong relationships with their clients may contribute to strengthen the experience of investors and better connect the retail investors with the SMEs, which is a major objective of the CMU. Furthermore, the local presence of these banks can facilitate the transition of most technologically advanced investors to new tools, while also continue serving clients who, due to their age or preferences, still prefer face-to-face engagement.

Second Opinion from
Manuel Ruiz Escudero,
President, Unión Nacional de Cooperativas de Crédito (UNACC)

Manuel Ruiz Escudero is the President of UNACC. Over the course of his career, he has gained extensive experience as a retail banker in *Caja Rural Central* (Orihuela, being nowadays the sole entity born in Comunidad Valencia which became 100 years old in 2017). In 2001, he became the General Manager of Caja Rural Central and as from 2012 he was appointed Vice-President becaming the President in October 2016. Since June 2017, he is the president of UNACC. Outside Caja Rural Central, he holds a seat on the Board of Directors of Banco Cooperativo Español and at “Asociación Española de Cajas Rurales” (Spanish Association of Cooperatives Banks).

Since the introduction of MiFID II and PRIIPs we have seen major advances in investor protection, especially thanks to the product governance rules (including the definition of target markets), the completion of the suitability assessment, the conflicts of interests ´management, the new disclosure rules towards clients and the higher requirements in staff training. So a lot has improved for retail investors in recent years.

That said, co-operative banks recognize that the environment in which retail investor operate has evolved. As also mentioned by Ms. Ross, digitalisation has changed the expectations of customers with regard to communication channels and level of service. Climate change is obliging Europe’s economies to find more environmentally friendly ways of producing their output. This translates in new finance needs and new investment preferences which banks need to cater for. Co-operative banks are more than committed to do so and to embrace the opportunities of digitalization while still giving personalized customer care. Taking their experience with existing legislation over the past years together with this changed environment, cooperative banks would like to put forward several recommendations to consider in creating the EUs Retail Investment Strategy, as follows:

• T**ackling information overload:** this point was also addressed by Ms. Ross. There is an urgent need to simplify and harmonise legislation governing retail financial products. Harmonisation should improve comparability across similar products and ensure level playing field. Simplification is required to allow more clear and concise information to be offered across the range of investment products available. This should be explored through the use of digital tools and channels. At the same time, consumers who cannot easily access digital tools should not be disadvantaged. The future retail investor disclosure framework should ensure a more fluid, agile, intuitive and ergonomic customer experience for in the brick-and-mortar and the online world.

• **How to support ESG objectives:** The EACB considers that the integration of the EU’s Sustainable Finance objectives and its wish for retail investor to co-finance the migration towards a more climate neutral economy needs special attention in the Retail Investment Strategy. First of all because it will make the role of advice even more important going forward. Indeed, the combined effect of different pieces of ESG legislation (e.g. Taxonomy, Sustainable Finance Disclosure Regulation (SFDR), MiFID delegated acts on sustainability) results in a complex set of information about sustainable finance products and activities that is already difficult to grasp for distributors, let alone for the retail investors. Furthermore, it is important to ensure a proper sequencing of the various ESG regulations in order to ensure that good advice can be provided. This will allow the time for co-operative banks to understand the legal requirements, have time to implement them and, most importantly, can ensure training of their advisers and updating of their robo-advice systems.

• **What with inducements:** The EACB is against a ban on inducements and considers that both fee-based investment advice and inducement-based investment advice must be allowed to co-exist. According to two recent KPMG studies comparing the different remuneration models (fee-based versus commission- or inducement-based advice) for providing investment advice, the commission-based model in some Member States is the only way for less affluent, remote region-based, and/or non-digital native clients to access investment advice. A ban of inducements could jeopardize financial inclusion since an advice gap has emerged in countries where the fee based model is the only one allowed (i.e. advice is not available for an average investor (investing an amount of €10,300)). Due to co-operative banks’ inherent principle of social inclusion, this would have an important impact on their retail clients and investors. Of course the fee-based investment advice model should not be disregarded as it has led to technological innovations such as in robo-advice, but rather consumers should be given the right to have a choice about which model best suits them as long as all relevant disclosures are made transparent.

• **Ensure legal certainty:** In future, it is important that legal certainty is already determined by the European Commission at Level 1 (with some further technical criteria under Level 2) and that the ESAs do not go beyond their mandate. Level 3 guidance and Q&As should logically follow at a later stage once sufficient time is given to implement the regulation.

• **Ensure level playing field:** Same activity, same rules. Digitalisation has led to development of new businesses offering financial services. But new business are not under the same regulation nor are they under strict supervisions as banks and investment services companies, which means that investors and customers are not given the same protection. Therefore, we sustain that level playing field is to be ensured among companies by making those new players being subject to the same regulation.

EACB latest publications:

- PRESS RELEASE - EACB welcomes that new EFRAG Sustainability Reporting Board becomes operational
- EACB comments on the European Commission AML package
- EACB answer to European Commission consultation on improving the EU's macroprudential framework for the banking sector
- EACB response to the European Commission consultation on the review of the Mortgage Credit Directive
- Conclusions from the Joint Workshop "Access to better technology for (Supervisory) Reporting"
- Joint Payments Industry Letter on the Final EDPB Guidelines on the Interplay between PSD2 and GDPR
- EACB comments on BCBS Principles for the effective management and supervision of climate-related financial risks
- "European co-operative banks in 2020: a concise assessment" by Tilburg University
- Key Statistics 2020 for Co-operative Banks are out !
- CALL FOR PAPERS | 10th EACB Award for Young Researchers on Co-operative Banks
- Press release - EACB honours the winners of the 9th EACB Award for Young Researchers on Co-operative Banks

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