

NFU Position Paper on the Retail Investment Strategy

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Proposed changes to Directive 2014/65/EU on Markets in Financial Instruments (MiFID)

Improved consumer protection

The Nordic Financial Unions supports the European Commission's intention to boost consumers' participation in the retail investment market. Finance employees in the Nordic countries undergo thorough and extensive training, at the same time retail investment clients participate in the capital markets to a wider extent than in most other EU member states. Simultaneously, the Nordic financial markets are characterised by the absence of a ban on inducements, going beyond what is prescribed in MiFID II. Those consumers, who do engage in the capital markets do already and under the current rules benefit from financial advice in multiple ways, increased pension savings, reduction of behavioural trading and improved portfolio diversification. Nevertheless, shortcomings during the sales process, especially regarding the ex-ante cost information, best-interest assessments do prevail.¹ This is why NFU endorses the proposal to make the sales process more transparent, improve comparability and thus improve the value of financial advice, regardless whether the advice is provided on- or offline as well as measures to improve disclosure of sustainability objectives, according to the amendments made to Article 24 in Articles 24a, 24b, 24c.

Deceptive marketing communications

NFU fully supports these amendments as recent studies show that low-quality social media investment advice does inadvertently impact investors' decisions, even if they believe to have not been influenced by the advice.²

Professional training of financial advisors

NFU deems also the additional training requirements in Article 24 d especially

¹ Maume, Philipp, "Reducing Legal Uncertainty and Regulatory Arbitrage for Robo-Advice", December 15, 2018. European Company and Financial Law Review 2019, 622-651, page 635

Available at: SSRN: <https://ssrn.com/abstract=3420011> or <http://dx.doi.org/10.2139/ssrn.3420011>

² Kadous, Kathryn and Mercer, Molly and Zhou, Yuepin, "Why do investors rely on low-quality investment advice? Experimental evidence from social media platforms", August 17, 2022, page 9. Available at SSRN: <https://ssrn.com/abstract=2968407> or <http://dx.doi.org/10.2139/ssrn.2968407>

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positive. Training, particularly on sustainability, for financial advisors has been a core demand since the Taxonomy Regulation has entered into force and remains a high priority for our affiliates at this point when the respective delegated acts start entering into force. NFU also appreciates that the proposal foresees that financial advisor shall be trained and acquire the necessary skills for giving quality advice for new investment products.

Time and incentives for giving quality advice

The European Parliament may want to consider that training for financial advisors alone may not be the only suitable tool to improve the quality of financial advice. Financial advisors should be allocated enough time to provide financial advice. If no time is allocated for consulting times of existing or potential/new retail investors, consumers will be barred from benefiting from financial advisors' newly acquired skills. Moreover, the allocation of sufficient time for providing financial advice is essential for building up financial literacy among consumers, which is a precondition for financial wellbeing. See also below. Furthermore, quality financial advice is incoherent with sales targets and should be avoided.

Financial literacy

NFU fully supports the focus on financial literacy and would like to highlight the role financial advisors can play to this end. As demonstrated by a recent 2023 Eurobarometer survey on financial literacy the overall levels of financial literacy in the EU remain alarmingly low particularly among young people. A low level of financial literacy combined with a high level of risk willingness among young people can be devastating and decisive for a young person's future financial wellbeing. This approach also highlights the need for allocating enough time for financial quality advice.³

Inducements

NFU however rejects the assumption that the proposed changes made in Article 24 a para.2 f. will induce more trust in the capital market and financial advice by intermediaries. This new provision prescribes that "Member States shall ensure that investment firms, when providing reception and transmission of orders or execution of orders to retail clients, do not pay or receive any fee or commission, are provided with any non-monetary benefit in connection with the provision of such services, to or from

³ <https://europa.eu/eurobarometer/surveys/detail/2953>

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any third-party responsible for the creation, development, issuance or design of any financial instrument on which the firm provides such execution or reception and transmission services, (...)"'. NFU fears that his factual ban of kickbacks can, contrary to its aim, induce financial institutions and their advisors to offset reduced income from banned kickbacks with higher costs elsewhere, which might again not be in clients' favour. In light of recent studies⁴, which have been investigating how a ban on payments by product providers to advisors affects individual investors' portfolio holdings and portfolio performance and whether banning inducements further might not be sufficient to address advisors' conflicts of interest. Studies on the results of a partial ban on kickbacks in Switzerland, introduced in 2012 have shown that banks substitute profits from kickbacks with profits from own-bank products, a practice, which has negatively impacted clients' portfolio performance. The study shows that own-bank mutual funds performed significantly worse than other funds. Moreover, the study provides evidence that own-bank structured products are more likely to be dominated by other structured products on the market. NFU views these potential circumvention venues highly critically and reiterates the paradox of this regulatory approach. This proposed widening of the scope of prohibitions within MiFID does concern mostly passively managed index funds. In the Nordic countries these are managed mostly by platforms that provide non-complex investment products. These platforms are increasingly popular among Nordic retail investors, some of them are able to generate more than 40.000 new investors per year, especially because the offered financial products are affordable and suitable for monthly investments, a change in reimbursement models may thus very well lead to higher price levels than today, without changing the quality of the services per se and may thus disincentivise new retail investments.

Price setting in secondary legislation

NFU is concerned about the far-reaching shift of essential political decisions, such as the definition of criteria to assess compliance of firms providing investment advice with the obligation to act in the best interest of their clients to the level of secondary legislation. NFU would like to see these provisions deleted and the political decision to be made by the EU co-legislators without recourse to amend the planned delegated acts and limiting the European Parliament's role to a yes or no-option.

⁴ Schaub, Nic and Straumann, Simon, "How Does a Ban on Kickbacks Affect Individual Investors?" August 22, 2023. Available at: SSRN: <https://ssrn.com/abstract=4274739>

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Nordic Financial Unions (NFU) is the voice of employees in the Nordic bank and insurance sectors. Through its seven affiliated unions in Denmark, Sweden, Norway, Finland, and Iceland NFU represents 150 000 members.