



Vereniging VEB NCVB

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European Commission
Lord Jonathan Hill
Commissioner Financial Stability, Financial Services and Capital Markets Union
BERL 10/222
Brussels
Belgium

The Hague, 5th of June 2015

Dear Commissioner,

As a consumer organisation representing Dutch retail investors, the Dutch Investors Association (VEB) was very delighted to hear your statements on the importance of consumer protection during the 3rd Joint ESAs Consumer Protection Day on 3 June 2015. We believe that consumer protection should indeed be at the heart of the Capital Markets Union (CMU). Financial services, as you stated in your speech, should be brought back to the people they serve.

In relation to investment products and services, MiFID II is *the* crucial piece of legislation that should guarantee adequate levels of consumer protection across Europe. In order to contribute to a successful implementation, the VEB would like to draw your Cabinet's attention to the following:

1. Maximum harmonization

The European Commission is currently drafting delegated acts on the basis of ESMA's final technical advice of 19 December, 2014. The VEB strongly believes that the European Commission should strive for maximum harmonization as this would contribute to legal certainty (among consumers as well as investment firms) and reduce barriers for the cross-border provision and use of investment services.

The VEB thinks that maximum harmonization can best be achieved through the adoption of Delegated *Regulations*, which are directly applicable in all 28 Member States.

2. Inducements

The VEB was very pleased to see that the Commission proposal for MiFID II included a partial ban on inducements for independent advice and portfolio management, and that the European Parliament and Council made sure that this ban was maintained in the final legislative act.

However, the VEB would have preferred a general ban. Inducements provide strong incentives for misselling. To make sure that consumers benefit optimally from the adopted Level 1-provisions on inducements, the VEB urges the Commission to ensure that:

- the range of non-monetary benefits that are considered minor and that are, therefore, permitted under MiFID II remains very limited;



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- stringent disclosure requirements, *ex ante* as well as *ex post*, apply to investment firms that provide 'dependent advice' with regard to the inducements they receive;
- quality enhancement is closely monitored by NCAs on the basis of a strict definition of what constitutes an additional or higher level of service and of what constitutes proportionality.

The VEB is supportive about ESMA's technical advice on this matter as it believes that, if adopted by the Commission, the three conditions mentioned above would be met, at least to a large extent. Accordingly, we urge the Commission to follow ESMA's advice on inducements.

It is also important to realize that MiFID II does not cover insurance investment products. These are dealt with in the recast of IMDII. The VEB believes it is of great importance that the provisions in IMDII with regard to inducements do not create a loophole by being less stringent than the provisions in MiFID II. This would harm consumers and slow down the inevitable reform the financial services industry should go through in order to maximize transparency, competition and choice. The VEB believes IMDII should at least introduce a ban on inducements for insurance undertakings or intermediaries that provide independent advice. However, ideally, there should be a general ban.

If you have any questions concerning the above, we are more than happy to provide your Cabinet with further explanation.

Yours sincerely,

A handwritten signature in black ink, appearing to read 'P. Koster', is written over a light blue horizontal line.

Paul Koster
Chief Executive
Dutch Investors' Association (VEB)