Brussels, 6 February 2023

To:

Mr Valdis Dombrovskis – Executive Vice-President of the European Commission

Ms Mairead McGuinness – Commissioner for Financial Services, Financial Stability and CMU

Mr John Berrigan – Director-General for Financial Stability, Financial Services and CMU

Cc:

Ms Tatyana Panova – Head of Unit, DG FISMA B.1

Mr Eric Ducoulombier – Head of Unit, DG FISMA B.3

Mr Tilman Lueder – Head of Unit, DG FISMA C.3

Mr Alain Deckers – Head of Unit, DG FISMA C.4

Mr Didier Millerot – Head of Unit, DG FISMA D.4

Subject: Concerns about upcoming Retail Investment Strategy

Dear Ladies and Gentlemen,

as Chairman of the European Financial Planning Association (EFPA), representing more than 90.000 certificate holders and being, for the reason, the leading professional standards setting body for financial advisors and planners in Europe, I'm writing to pose our concerns about the upcoming Retail Investment Strategy (RIS) on some issues regarding investment advice.

The main objective of the RIS is to increase the participation of retail investors in financial markets. Financial advisors play a key role for the achievement of this objective. According to the very important European Commission's "Disclosure, inducements, and suitability rules for retail investors study" (hereafter, the 'EC Study'), **advisors are the most important driver of retail investors' decisions[1]**. Their role, different from the role of financial institutions, has been reinforced thank to a full commitment with **professional training**, **continuous professional development,** and **financial education**. Therefore, ensuring access to financial advice can strongly contribute to **financial inclusion**, and it is critical in helping investors meet their **sustainability preferences**, and enhancing client's **private retirement provisioning**, especially in the current context of high inflation.

The EC Study has confirmed that investors tend to follow the advice that they receive. What is crucial is to enhance the quality of advice, considering its influence in retail investment decisions.

In this context, we would like to contribute to clarify the ongoing debate on the possibility of banning commissions.

[1] European Commission (2022), "Disclosure, inducements, and suitability rules for retail investors"; Eurobarometer Survey on Retail Financial Services (2022).

The experience in UK shows that **a ban on commissions widens the "advice gap"**, especially among vulnerable clients, which -according to the conclusion of the EC Study- **would confront the intended objective of the RIS**. This has been confirmed by the Financial Conduct Authority (FCA): "less wealthy consumers don't tend to access professional support with their finances as often as wealthy consumers, though many want more support to make financial decisions"[2].

The RIS must ensure different business models, without imposing a mandatory fee-based model that could have undesirable effects. The MiFID II framework is an open market model. There is a wrong presumption over non-independent advice to be "bad advice", and that MiFID II has not led to a shift towards independent advice. However, MiFID II did not determine a market model based on independent advice: its model was to create an **efficient, safe, and investor-protective Capital Markets Union, based on transparency and the prevention of conflicts of interest, through all the life cycle of investments products**.

For these reasons, we would like to propose a different approach to address this matter.

Retail investors demand clear and precise ("to the point") **information on the costs of the advice**, among which are inducements; and the **scope of the advice**, that is, if it comprises all the products available in the market or only the ones available in the portfolio of a financial firm. Clients do not perceive the relevance of the dichotomy between independent or non-independence advice. From the transparency point of view, informing on the status of independent or non-independent of the advisor or on inducements –a concept that retail investors do not fully understand– is not perceived as relevant by retail investors, as concludes the EC Study.

In sum, what retail investors indeed demand is good advice. From a general point of view, this can be achieved by enhancing knowledge and competence requirements (addressed in ECON's Amendment 38 of MiFID II) and requiring advisors an **ethic commitment to act in the client's best interest** (acc. Art. 24.1 MiFID II). More specifically, MiFID II provides two key set of measures to achieve this objective: the **Product Oversight and Governance** (POG) and the **Suitability Assessment** rules.

As the EC Study noted, advisors fulfill their obligations of suitability assessment and align their advice to the profiles and objectives of their clients[3]**.** Therefore, the advice can be considered of "good quality". In turn, POG binds advisor and narrows the scope of the suitability assessment that advisors must carry out before providing advice. Consequently, **POG rules could be enhanced to consider the outcomes of the charging structure**[4] so the products being recommended represent not only suitable solutions but **optimal in terms of value for money**. This must be included as an **element of the suitability assessment** as well, so advisors should commit to recommend the best of the options available in terms of value for money. This is in line with the approach proposed in the EC's Targeted Consultation on options to enhance the suitability and appropriateness assessments conducted in 2022: "…how all retail investors, and not only wealth management

[2] FCA (2022), "Broadening access to financial advice for mainstream investments" (CP22/24).
[3] European Commission (2022), "Disclosure, inducements, and suitability rules for retail investors", p. 33.
[4] ESMA Consultation Paper on Review of the Guidelines on MiFID II product governance requirements, 8 July 2022 (ESMA35-43-3114). In this sense, ESMA has considered a good practice "Removing certain products from the product offer because the outcomes of the product review revealed that they do not longer offer value for money".

clients, might benefit from a new suitability assessment that could provide them with more support along their investment journey to better achieve their investment objectives and to enhance their participation in the capital markets".

In conclusion, the way for retail investors to obtain the best outcomes in their investment is not to ban inducements, but –as the EC Study summarizes– to "more generally improve the quality of advice, ensure that advisors meet minimum requirements in terms of knowledge and competence and more generally reinforce the duty of care of retail financial product distributors, as well as to make sure that the client is well informed and understands the advice".

We think that this approach would be a more efficient model of regulation to tackle down the suspicion on the commission-based model and to create a Capital Markets Union that ensures access to all financial services to retail clients.

Yours sincerely,

Prof. Emanuele Maria Carluccio
Chairman of the European Financial Planning
Association (EFPA AISBL)