RETAIL INVESTMENT STRATEGY (RIS)

AMAFI'S PRIORITIES FOR THE TRILOGUES

At a time when the European Union is facing immense financing challenges (digitalization, defense, decarbonization, deglobalization, demographics) and reflecting on the future of its markets, it is vital that they are able to contribute to meeting these needs. This means facilitating access for companies to markets whose attractiveness ensures depth and liquidity. The investment of European savings in these markets, alongside those of foreign investors, is critical in this respect.

In this context, the RIS should be an opportunity for the European legislators to facilitate savers' access to capital markets, both from an operational point of view and in terms of the expected return on these savings. As per E. Letta's report, the aim is to redirect to the EU economy the 300 billion euros of European household savings that mainly finance the US economy.

This calls for a favorable cost/benefit ratio for savers' investments, a broad range of products and services to meet the varied needs of investors, and a protective investment process that avoids superfluous barriers and retains a certain attractiveness in comparison with assets with no link to the real economy, to which access is currently unrestricted.

In all three respects, the draft texts of the Parliament and Council on RIS[1] are unfortunately disappointing. In some respects, they even run counter to the stated objectives of revitalizing capital markets (CMU).

With the trilogues expected to get underway in the autumn under the Hungarian Presidency of the Council, AMAFI hereby sets out the main points of the proposed MiFID Directive and PRIIPS Regulation which it considers should be amended in order to achieve the aforementioned objectives, with particular reference to the market activities it represents.

[1] Position of the European Parliament's Committee on Economic and Monetary Affairs adopted on April 23, 2024, and general orientation of the Council adopted at the ECOFIN meeting on June 21.

I. MIF

A. VALUE FOR MONEY *(ARTICLE 16-a) (1) OF MIFID II)*

AMAFI supports the principle of adding a *value-for-money* (VfM) test designed to verify that all financial products distributed offer added value for clients. However, it draws attention to the fact that, in the absence of comparable products, this test cannot, for structured products, be based on comparison with historical benchmarks. The value of these products is assessed using a forward-looking approach. This consists in comparing the simulated performance of these products, according to different scenarios, with reference to a simpler product with the same credit rating (the "next best alternative"). AMAFI points out that structured products offer investors an interesting opportunity to diversify their assets, especially as they generally include capital protection and therefore offer an attractive risk/return ratio.

Commission text	Parliament text	Council text	AMAFI comment
Comparison of PRIIPs with cost and performance benchmarks	Internal process for evaluating product costs and performance by comparison with peer groups[2]. ESMA determines European benchmarks (and national benchmarks in exceptional cases) as supervisory tools.	Internal process for assessing product costs and performance by comparison with peer groups, **where possible.** ESMA sets European benchmarks[3] as a supervisory tool.	**The VFM approach for structured products should take the form of a comparison with the closest simple product. The text should, at least through a recital, clarify that the VFM obligation for these products cannot be based on a comparison with historical benchmarks.**

[2] Comparable product groups determined by PSI
[3] Groups of comparable products determined by ESAs or competent authorities

B. INDUCEMENTS (ARTICLE 24A (2) AND (3) OF MIFID II)

AMAFI welcomes the fact that the approaches adopted by the Council and Parliament no longer include a ban on inducements, which, by calling into question the business models of many players, would have affected the diversity of products available to savers and limited client access to advice.

However, the Council's text would make the levying of inducements conditional on their being "*proportionate to the value of the financial instrument and the level of service provided to the relevant client* ". As regards proportionality to the value of the financial instruments, it is not easy to understand what would be required, even though clarity should be particularly sought for a level one text. If this point cannot be clarified, it should be deleted.

As regards proportionality to the level of service provided to the relevant client, this requirement seems i) unrealistic and ii) contrary to the objective sought:

- unrealistic, because it is impossible to justify, client by client, that the level of inducements perceived is proportionate to the services actually provided to each client.
- counterproductive, as it runs counter to the mutualisation provided by the *inducement* system, which gives less affluent clients’ access to value-added services (including ongoing advice) that they would not otherwise be able to afford.

Commission text	Parliament text	Council text	AMAFI comment
Prohibition on the perception of inducements for RTO or third-party order execution services not preceded by advice.	No ban	No ban	**AMAFI supports the Council's and Parliament's texts on this point.**
_	_	Inducements must comply with four overarching principles, including being proportionate to the value of the financial instruments and the	This principle should be abolished. At the very least, **the terms "services provided to the relevant client " should be replaced by "services *made***

Commission text	Parliament text	Council text	AMAFI comment
		level of service provided to the relevant client.	**<u>available</u> to the relevant <u>clients</u> ", to allow an approach by type of client.**

C. BEST INTEREST TEST - (NEW ARTICLE 24(1a) OF MIFID II)

The Commission's proposal adds a further step to the client journey, requiring, when providing investment advice, to verify compliance with three cumulative conditions (the "*best interest test*") relating to the nature of the products advised, which, in particular, must be "the most *cost efficient*".

The Council's text also stipulates that "*the most cost-efficient*" financial instruments should be recommended. However, this requirement duplicates those concerning VfM, which are designed to ensure that the level of charges for any financial instrument is reasonable in relation to its characteristics and associated services. Moreover, this test is less appropriate since, unlike the VfM requirements, it does not take into account the qualitative criteria (including, for example, the existence of capital protection) that are important to consider when explaining the level of product charges. In this respect, the inclusion of "*other factors*" among the elements to be measured in this text does not ensure that qualitative criteria are taken into account, since the illustrative examples of this concept are quantitative elements (i.e., expected return and performance). Lastly, the addition of this test is likely to make an already cumbersome sales process even more cumbersome, as it will require specific discussions with the client in the case of financial instruments whose characteristics go beyond the client's registered profile.

Commission text	Parliament text	Council text	AMAFI comment
Addition of a best interest test, i.e. the obligation to meet three cumulative conditions when providing advice, including that	For services not subject to the prohibition on perceiving inducements: (i) client information on the various products under	The *best interest test* includes the obligation to recommend the *"most cost-efficient financial instruments"*.	The **requirement in the Council text to recommend the most "*cost-efficient*" products should be deleted or at least replaced by "efficient".**

Commission text	Parliament text	Council text	AMAFI comment
the products recommended must be the most cost-efficient and that the range of financial instruments identified as suitable must include at least one product without additional features that are not necessary to the achievement of the client's investment objectives and that give rise to extra costs.	consideration, (ii) recommendation of the most suitable products and (iii) primacy of the client's interest.		

D. SUITABILITY CHECK (ARTICLE 25 (2) OF MIFID II)

Considering the sale of a financial instrument whose characteristics go beyond the client's profile and generate additional costs to be illegitimate is excessive: the VFM's purpose is to verify that the level of product charges is reasonable in relation to their characteristics, performance and qualitative features. Moreover, recommending a more expensive product with features that go beyond a client's profile can be perfectly legitimate, for example when that product offers better performance prospects, a better guarantee, particular ESG characteristics or opportunities to diversify the client's assets. Lastly, the addition of this test is likely to make an already cumbersome sales process even more cumbersome, as it will require specific discussions with the client in the case of financial instruments whose characteristics go beyond the client's registered profile. This requirement should therefore be dropped.

Commission text	Parliament text	Council text	AMAFI comment
		Products with *"features which are not necessary to the achievement of the client's investment objectives and that give rise to extra cost* " are considered to be unsuitable for clients.	**This requirement should be removed.**

E. VERIFICATION OF APPROPRIATENESS (ARTICLE 25 (3) OF MIFID II)

This test is applicable when clients make their own investment decisions, i.e. when the RTO or execution of orders service is offered to them. Clients must retain the possibility of accessing a non-advised investment service, enabling them to make their own investment decisions according to their own agenda.

With the addition of the two criteria of capacity to bear losses and risk tolerance, there is a great risk of imposing unwanted delays on clients or limiting their freedom of choice. All the more so as this addition is accompanied by an increase in the complexity of the order placement process, which will now require an express request from the client if he wishes to carry out his transaction despite the inadequacy of the information provided or its non-conformity with the characteristics of the product. This could also lead to confusion with the service of investment advice and create legal uncertainty that would be detrimental to the client relationship. The diversity of the service offering must be preserved to match the diversity of investor profiles.

Commission text	Parliament text	Council text	AMAFI comment
Added verification of clients' capacity to bear losses and their risk tolerance.	Unchanged from current version (no addition of the two criteria)	Unchanged from current version (no addition of the two criteria)	On this point, **Parliament's text should be preferred.**

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F. CLIENT INFORMATION (ARTICLE 24b (4) OF MIFID II)

The provision of detailed information on the performance of securities held in portfolios by investment firms providing both an investment service and a service of safekeeping and administration of financial instruments is excessive at a time when clients are already complaining of too much information. Setting up the tools needed to provide this information will necessarily be costly and will have an upward impact on client invoicing. This information should only be provided at the client's request.

Commission text	Parliament text	Council text	AMAFI comment
When an investment service is provided in conjunction with a service of safekeeping and administration of financial instruments, clients must be informed of the detailed performance of each financial instrument in their portfolio.	The net performance of each financial instrument in the portfolio should be available on request.	Mandatory supply	**On this point, Parliament's text should be preferred.**

II. PRIIPS

A. SCOPE OF APPLICATION (ARTICLE 2 (2) OF PRIIPS)

Vanilla bonds are currently included within the scope of PRIIPS. They are, however, financial instruments designed to raise financing and not developed to meet savings needs. As they are not packaged, they should not fall within the scope of PRIIPS.

To date, this has hampered their marketing to retail clients, as vanilla bond issuers usually reserve their issues for professional clients, in order to avoid having to draw up a PRIIPs KID. AMAFI hopes that this anomaly, which runs counter to the objectives set by the CMU to promote access by households to the Union's financial markets, can be resolved with the amendments brought to PRIIPS by the RIS.

Commission text	Parliament text	Council text	AMAFI comment
Exclusion of obligations with a "*make whole*" clause	idem	idem	**Vanilla bonds (i.e. debt securities *with no embedded derivatives)* should also be excluded from the scope of PRIIPs.**

B. ESG SECTION - NEW (ga) PRIIPS ARTICLE 8 (3)

AMAFI sees no reason to limit the scope of the provisions relating to this section to financial instruments falling within the scope of SFDR, as the others should also be marketed according to their sustainability characteristics since they are subject to MiFID2 ESG requirements.

Besides, the existing distortions between PRIIPs requirements and MiFID2 distribution requirements are likely to create difficulties during marketing: the ESG information on the product contained in the KID will not meet the ESG preferences defined by article 2 (7) of the MiFIDII delegated regulation. To carry out the *suitability* test, it will therefore be necessary for distributors to collect additional information from the manufacturers, which is obviously undesirable from the point of view of process efficiency.

Commission text	Parliament text	Council text	AMAFI comment
Addition of a new ESG section, limited to SFDR products and using different concepts from those of MiFID	Addition of a new ESG section, limited to SFDR products and using different concepts from those of MiFID	Addition of a new ESG section, limited to SFDR products and using different concepts from those of MiFID	**The ESG section of the PRIIPs KID should include the criteria of article 2 (7) of the MiFIDII delegated regulation**

C. PERSONALISATION AND COMPARATIVE TOOL - ARTICLE 14 (2) OF PRIIPS

Personalising KID information (particularly cost and performance information) for each client is not feasible for all financial instruments. For structured products, this would require real-time calculation capacities that do not exist for these products: each personalised piece of information would require heavy probabilistic calculations that distributors do not have the means to carry out.

Commission text	Parliament text	Council text	AMAFI comment
Personalisation options	KID information can be delivered via an interactive tool, allowing personalisation.	–	**On this point, we prefer the Council's text, which does not include such a requirement.**
Possibility of providing **interactive** tools	Online PRIIPs comparison tool developed by ESMA, containing information on performance, risk level and costs and charges.	–	**On this point, we prefer the Council's text, which does not include such a requirement.**