



Legal Update

New EU Retail Investment Package

On the 24th of May 2023 the European Commission (“EC”) proposed a new retail investment package (“RP”) in the form of a draft amending Directive. The objective of the RP is to help build confidence from retail investors in the EU’s Capital Market by modernising disclosure rules and ensuring investor rights are further protected. The EC hopes that by making EU markets safer for retail investors more ordinary citizens will be encouraged to invest in the capital markets.

Background

In the EU investor protection rules are currently set out across sector and product specific legislative instruments such as those pertaining to Packaged retail and insurance-based investment products (“PRIIPs”) or Undertakings for the Collective Investment in Transferable Securities (“UCITS”). The result of this is that the rules across financial instruments may differ - creating confusion for retail investors. The concern is that as a result retail investors may currently struggle to access relevant, comparable or easily understandable information, and as a result only 17% percent of EU house holds held financial securities in 2021, which is well below U.S households. With 45% of Europeans reporting that they are not confident in the financial advice they receive and increasingly at risk of being unduly influenced by marketing on social media or other such new marketing avenues, the RP aims to restore consumer confidence in the markets and curb potentially misleading marketing practices.

The Package

The RP is wide-ranging in scope and touches on the entire investment journey of the retail investor. It consists of an amending Directive, which revises the existing rules set out across various sector specific legislative financial instruments such as PRIIPs or UCITS.

Its aim is to improve the way information is provided to retail investors regarding investment products and services, in more meaningful and standardised ways, by adapting disclosure rules. It increases transparency and comparability of costs by requiring standard presentation and terminology on costs of investments. It will ensure that there is a clear and understandable annual view of investment performance.

The RP addresses conflicts of interest in the distribution of investment products by banning inducements for “execution only” sales and ensuring financial advice is aligned with the retail investors best interests. It protects retail investors from misleading marketing by ensuring financial intermediaries are full responsible for their marketing including where marketing is undertaken on social media or by celebrities. National measures that support the RP which can help empower consumers to make better financial decisions are encouraged. The RP improves the accessibility of financial products and services for advanced retail investors by making the eligibility criteria to become a professional investor more straightforward and proportionate. Finally the RP aims to enhance supervisor cooperation between national authorities and the European Supervisory Authorities. This will make investment across the EU more cohesive for the retail investor.

Next Steps

The RP is currently open for feedback for the next 8 weeks, closing on the 27th of July. Feedback will be summarised by the EC and then presented to the European Parliament and Council with a view to assisting in finalising the legislation.

How Clerkin Lynch can assist

Contact us for assistance in understanding the implications of the RP and how best to prepare for it, particularly where products are subject to any of these sector specific legislative instruments: MiFID, the PRIIPs Regulation, the UCITS Directive, AIFMD, Solvency II and IDD or you are considering entering the EU market.



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