BEUC The European Consumer Organisation

Press Statement

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EU regulator waters down financial markets rules after industry pressure

Recommendations by the European Securities and Markets Authority (ESMA) on how EU member states should implement a key financial markets law[1] (the *Markets in Financial Instruments Directive* – MiFID II) passed last year have been substantially weakened following industry pressure.

To avoid reversing the achievements in this recent legislation to ensure investment advice better meets consumers' needs, The European Consumer Organisation is calling on the European Commission to disregard ESMA's proposals when it decides on the final implementation guidelines.

If the recommendations made by ESMA were to be followed:

- Bank staff and financial intermediaries could continue receiving commissions while making only marginal efforts to comply with a key MiFID II requirement that they "enhance the quality" of the investment service. If "enhancing the quality of service" could be as little as sending an annual performance statement as suggested by ESMA, the problem of potentially biased advice would not be tackled[2].
- Consumers would not be told if their investment advice is either independent or non-independent. This is important information because "independent advisors" can no longer accept commissions or must pass them on to the client[3]. Such investment product advice is not prone to financial bias by bank staff which is detrimental for the client.

Monique Goyens, Director General of The European Consumer Organisation (BEUC) commented:

"Roughly 60% of all investment products sold to consumers do not cater for their needs. This situation will not improve if regulators give in to industry pressure to maintain the status quo. The EU directive on financial markets contains useful measures to repair some of the flaws related to commission-based investment advice. The Commission must ensure that when these laws are implemented those timid advances are not rolled back just to please industry."

ENDS

Notes:

[1] The revision of the Markets in Financial Instruments Directive (MiFID II), which was officially concluded in June 2014, is currently being transposed by EU governments. The European Commission, on the basis of advice from the European Securities and Markets Authority (ESMA), is tasked with providing implementation guidelines.

[2] Under MiFID II inducements or commissions must be "designed to enhance the quality of the relevant service to the client" and not impair honest, fair, professional advice "in accordance with the best interest" of the client. ESMA has been mandated to specify this obligation.

[3] While ESMA's first draft recommendation dated 22 May 2014 provided that non-independent advice should be declared as such, the final version modified its stance by taking "potential negative connotations to non-independent advice" into account. This goes against the actual MiFID provisions which stipulate that firms must disclose "whether or not the advice is provided on an independent basis".

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