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The European Commission approves a package of measures to protect retail investors

On 24 May, the European Commission adopted a retail investment package (the "**Retail Investment Strategy**" or the "**Proposal**"), aimed at protecting the interests of retail investors by empowering them to make investment decisions that are aligned with their needs and preferences. This initiative is part of the European Commission's 2020 Capital Markets Union Action Plan, and, specifically, its aim to make the EU an even safer place for citizens to invest in the long term, including by encouraging their participation in EU capital markets.

The Proposal consists of an amending Directive, which revises the existing rules laid down in the Markets in Financial Instruments Directive (MiFID II), the Insurance Distribution Directive (IDD), the Undertakings for Collective Investment in Transferable Securities Directive (UCITS), the Directive on Alternative Investment Fund Managers (AIFM) and the Directive on the taking-up and pursuit of the business of insurance and reinsurance (Solvency II), as well as an amending Regulation, which revises the Regulation on packaged retail and insurance-based investment products (PRIPPS).

Among its objectives, it is worth noting that the European Commission's own press release states that the Proposal addresses '*potential conflicts of interest in the distribution of investment products by banning inducements for "execution-only" sales (i.e. where no advice is provided) and ensuring that financial advice is aligned with retail investors' best interests.' Transparency and stricter safeguards will also be introduced in cases where inducements remain authorised*. Accordingly, Valdis Dombrovskis, Executive Vice-President of the European Commission, in the speech following the publication of the Retail Investment Strategy, stated that it is proposed to '*prohibit incentives or commissions on sales of investment products without advice, or what are known as "execution-only" sales, where no financial advice is given*'.

This settles, at least until the adoption of the final draft of the regulation presented by the Commission on 24 May, the question of whether the charging of incentives (retrocessions) in advisory services will continue to be allowed, since, according to the European Commission's position, they will only be prohibited in pure marketing services. In any case, the Proposal establishes some additional transparency requirements, among which it is worth highlighting the following:

- For sales where advice is given, it is proposed to replace the current criteria with a new test specifying the duty of advisors to act in the best interests of the client.
- Where incentives are allowed, it is proposed to require distributors to inform clients about the nature of the inducements, their costs and their impact on the return on investment.

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