

04 October 2016

DG Financial Stability, Financial Services and Capital Markets Union
European Commission
SPA2 02/076
1049 Brussels
Belgium

Re: Call for Evidence on Cross-Border Distribution of Funds Across the EU

Dear Sir or Madam,

CFA Institute appreciates the opportunity to respond to this call for evidence on improving cross-border distribution of funds across the European Union (EU) as part of the Capital Market Union (CMU) action plan.

CFA Institute is the global association of investment professionals that sets the standard for professional excellence and credentials. The organization is a champion for ethical behaviour in investment markets and a respected source of knowledge in the global financial community. The end goal: to create an environment where investors' interests come first, markets function at their best, and economies grow. CFA Institute has more than 140,000 members in 150 countries and territories, including 133,000 Chartered Financial Analyst® charterholders, and 147 member societies.

Summary

Our comments focus on Section 7 – Direct and Online Distribution of Funds, specifically as they relate to the following issues:

- Barriers to the distribution of funds by asset managers;
- Barriers to the online distribution of funds; and
- Barriers to investment by EU citizens.

Specific Comments

Feedback from our members suggests that tax rules within the EU are the main hindrance to direct distribution of funds. Specifically, the tax system within the EU is not harmonised among member states. This means that the fund provider must prepare tax reporting based on local rules and lacks a unified approach to creating the legal fund structure. For example, in different member states, a corporation (e.g. SICAV) or a unit trust (e.g. FCP) might be more or less appropriate for clients. However, the replication of funds in different structures is costly. Our feedback is that double taxation treaties are not the main issue regarding tax barriers; rather, it is differences in the legal tax structures of fund types across Member States that create complexity.

Regarding online distribution of funds, our members have cited 'local adherence' obligations as being a key issue. Typically, an asset manager will rely on a network of local agents, who will be responsible for preparing the tax reporting and being the main point of contact for investors, as well as providing regular information to unit holders or shareholders. Although it is possible for the fund sponsor/manager to have a centralised distribution function, which will cater to the different host

states with the required information, certain countries legally require the use of a local agent to assume that role (including the marketing of the fund to the targeted client pool).

Online distribution on its own is not sufficient for a profitable wide-range distribution. Asset managers will consider the costs related to regulatory fees, document translation, and provision of local access (i.e. through a local website or agent) as normal costs of doing business (in addition to the aforementioned tax considerations). Together, these considerations can mean that cross-border distribution is not always profitable for the fund provider.

Regarding the barriers to investment by EU citizens in funds domiciled in another Member State our feedback is as follows. First, we have to assume that investors typically have a “home bias” as they generally know the sponsor (at least by name) and share the same language/culture thereby creating a sense of confidence or at least comfort in the investment being pursued. Second, from a tax perspective, the optimal investment vehicle may come under a specific legal structure regarding withholding tax or stamp duty that exists in the home state and may not exist in another Member State.

Finally, there are potential legal constraints on top of the issues described above due to the specificities of local regulations, or in the case of pension schemes, investment limitations or restrictions as a matter of internal policy (e.g. according to product range, share classes, and other factors constraining the selection of funds within the scheme). In the case of segregated accounts, trade-offs often need to be made and these may prevent investment in platforms domiciled in another member state, or at least only a few domiciles / fund structures may be eligible.

Concluding Remarks

CFA Institute welcomes the opportunity to comment on the barriers to the direct distribution of funds across the EU. Please do not hesitate to contact us should you wish further elaboration of the points raised.

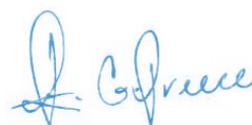
Yours faithfully,



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