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Alp Eroglu
International Organization of Securities Commissions (IOSCO)
Calle Oquendo 12
28006 Madrid
Spain

Subject: Public Comment on IOSCO Consultation Report on Retail Distribution and Digitalisation

Dear Mr Eroglu,

CFA Institute welcomes the opportunity to comment on the IOSCO Report on Retail Distribution and Digitalisation.

CFA Institute is the global association of investment professionals that sets the standard for professional excellence and credentials. The organization is a champion of ethical behavior in investment markets and a respected source of knowledge in the global financial community. Our aim is to create an environment where investors' interests come first, markets function at their best, and economies grow. There are more than 175,000 CFA® Charterholders worldwide in 160 markets. CFA Institute has nine offices world-wide and 160 local member societies.

The promotion of investor protection and ethical business conduct are key priorities for our organisation. The CFA Institute Code of Ethics and Standards of Professional Conduct, which represent the ethical benchmark for investment professionals, aim to boost the integrity of CFA Institute members and candidates (who are required to comply with the principles of the Code and Standards), and contribute to achieving CFA Institute mission, which is to promote higher standards of ethics, education, and professional excellence for the ultimate benefit of society.

The increased use of social media platforms and digitalisation has brought about new ways of providing financial advice, marketing and distributing financial products. Developments in online marketing and distribution of products also have facilitated cross-border activities. However, significant risks for retail investors have emerged as well. Digital marketing and distribution have created new opportunities for scams and frauds targeting retail investors, while allowing fraudsters to conceal their legal identity.

The development of complex instruments, such as crypto-assets, has particularly given rise to many online investment scams. Fraudsters often make use of social media platforms to reach out and offer inappropriate securities to retail investors, only for their own benefit. Financial market surveillance is challenging because of the continuing evolution of online scams, and the lack of specific legislative frameworks covering the online marketing of crypto-assets to retail investors in many countries. Retail investors should be wary of crypto-assets offerings via social media platforms and other marketing sites.

We also have seen the increasing trend of social media influencers advertising financial products. These celebrities have the capacity to reach out to millions of social media users, and spread misleading information to potential investors. Influencers are often paid by financial entities to advertise their products on their social media channels. CFA Institute agrees with the IOSCO recommendation of requiring firm management to assume responsibility for the accuracy of the information provided to potential investors on behalf of the firm, including those provided by influencers. We also support the proposed requirement for firms to establish proper internal rules, policies, processes, and tools for their online marketing and distribution.

However, regulators also should require full transparency on the remuneration that financial institutions provide to influencers for their advertisement via social media. This disclosure can help investors distinguish clear product adverts or placements, for which influencers are paid, from pure gossip. A case in point is last year's ruling by Direction générale de la concurrence, de la consommation et de la répression des fraudes (the French Competition and Markets Authority), which charged the French influencer Nabilla Benattia-Vergara for providing misleading recommendation for a website specialising in Bitcoin trading. She was sanctioned with a 20,000 euro-fine for not disclosing that she was remunerated by the cryptocurrency platform, and publishing false and misleading information on the performance of some investments[1].

Another situation in which further guidance is needed concerns influencers providing opinions/recommendations regarding the performance of specific investments when they do not have any relationship with the firm marketing these products. We believe that a financial entity cannot be held responsible for actions by someone if it has no influence on them. However, if there is a contractual agreement with the third party or, even if formally there is not, but the third party can be considered as not acting independently, (such as in the case of being remunerated from the financial entity for the promotion of its products), these entities should ensure that the marketing is performed following the applicable rules and be responsible for them. If they are really independent, only the third party should be held responsible for spreading misleading information on specific financial products. CFA Institute calls for greater clarity on how third parties, including influencers, should be held responsible in this particular case.

CFA Institute is also concerned about the ongoing trend of processing client onboarding, which is increasingly conducted exclusively online. Most of the time, clients do not have any face-to-face interaction (not even a virtual meeting) with the offering firm. We believe that such a type of onboarding does not allow the financial entity to properly perform due diligence, and carefully execute "know-your-customer" (KYC) and suitability procedures. Firms always should have some type of human interaction with their clients, or the ability to have a validation review by an experienced professional before approving the advice or the recommendation. The CFA Institute "Earning Investors Trust survey report (published in 2020) shows that retail investors prefer

[1] https://investir.lesechos.fr/marches/bitcoin-cryptomonnaies/bitcoin-l-influenceuse-nabilla-condamnee-a-20-000-euros-d-amende-1973805.php

having a human interaction with a financial adviser. 73% of survey respondents (mainly retail investors) said that they are more likely to trust specific recommendations from a human adviser compared to recommendations from robo-advisors[2]. Hence, we believe that financial client onboarding regarding investment accounts should not be conducted completely in a virtual manner, but also include some interaction (which also could take place via virtual meetings) between the firm and the client, to clearly understand the investor's experience, risk and return objectives, and financial constraints to ensure suitability of proposed investments for the investor.

Moreover, we argue that financial entities should look at their clients from their lifecycle perspective when conducting client onboarding. Ideally, retail investors should be given an "identikit" for the purpose of investments in financial markets. This identikit would identify individuals based on particular features, such as number of dependent children, being employed or unemployed, having large outstanding mortgage/student loan debts, etc., and would allow to better target specific investment advice to retail investors. For example, risky investments may not be offered to unemployed individuals with two or more dependent children.

CFA Institute shares the IOSCO view that increased clarity about legal entities using internet domains is needed. Firms that have had a domain closed by regulators might take advantage of regulatory loopholes and any gaps that may exist across border to open a new domain in another country. We realise that it is challenging for supervisory authorities to detect and restrict bad practices, due to the great amount of information that can be uploaded on the web. Given the cross-border nature of financial services marketing and capital flows, CFA Institute advocates for better coordination and cooperation between different regulators. This could be in the form of joint task forces for monitoring and reporting unusual activities. and using automated technology to scrape data from the internet and popular social media platforms.

We would suggest that IOSCO consider the merit of introducing a standardised universal label that would certify regulated financial entities. Such a label, if provided by all regulators around the globe in a standardised manner, could help retail investors recognise those entities that are not regulated, which may offer dubious products. Regulated entities, which comply with the rules on marketing and distribution of financial products, could be awarded this quality label and listed in a regulatory page. If an entity is not included in these regulatory pages, retail investors should presume that it is not licensed, and the product that is being marketed may not be suitable for them. IOSCO could facilitate coordination between national regulatory authorities, which should discuss a standardised process for the creation of this single quality label.

CFA Institute supports the proposed policy measure on staff qualification and/or licensing requirements for online marketing. Firms should assess the necessary qualifications for digital marketing staff, and require appropriate qualification for online marketing personnel. Marketing and sales personnel of financial firms should undergo professional training and meet minimum professional standards to ensure understanding and alignment on regulatory requirements and

[2] CFA Institute "Earning Investors Trust", 2020: https://trust.cfainstitute.org/wp-content/uploads/2020/05/CFAI_TrustReport2020_FINAL.pdf

ethical conduct. We argue that ethics should be a fundamental component of training and qualification of online and traditional sales marketing staff.

Finally, CFA Institute would like to stress the importance of promotion of financial education. Building an effective financial education framework is complex as this should be targeted to people's entire life cycle, including children in primary schools. It is not possible to educate investors on all types of investment products that are available in financial markets. Instead, financial literacy programmes could teach retail investors to distinguish valid and suitable products for them from too risky and inappropriate investments. This approach also would contribute to boosting trust towards good financial market actors marketing appropriate products to potential educated clients.

Sincerely,

/s/ Josina Kamerling

Josina Kamerling

Head, Regulatory Outreach, EMEA

CFA Institute