

11th September

EBF feedback to EC Consultation on Research amending delegated directive (EU) 2017/593 as regards the regime for research on small and mid-cap issuers and on fixed-income instruments to help the recovery from the COVID-19 pandemic

Key points:

- ◆ **EBF welcomes the EU Commission proposal to amend MiFID II delegated Directive (EU) 2017/593 aiming at easing the funding of investment research, in particular on small and mid-cap issuers and on fixed income instruments.**
- ◆ **However, the scope of application of the EC proposal is too limited. It would be appropriate to provide for the extension of the proposal to all companies irrespective of their market capitalisation value. In this direction, EBF urges the EU Commission to put forward a wider proposal to review the investment research regime under MiFID and to introduce any initiative aimed at preventing investment research coverage, in particular on SMEs, decline, taking stock of the results of the public consultation on MiFID II/MiFIR closed in May 2020.**

European Banking Federation aisbl

Brussels / Avenue des Arts 56, 1000 Brussels, Belgium / +32 2 508 3711 / info@ebf.eu
Frankfurt / Weißfrauenstraße 12-16, 60311 Frankfurt, Germany
EU Transparency Register / ID number: 4722660838-23


www.ebf.eu

EBF position:

EBF welcomes the EU Commission proposal to amend MiFID II delegated Directive (EU) 2017/593 aiming at easing the funding of research unbundling regime for the of execution services and investment research regarding small and midcap issuers and fixed income instruments.

However, we consider the current proposal as a first step towards a more in deep revision of the unbundling regime regarding any types of investment research. The scope of application of the proposal is today too limited. It would be appropriate to provide for the extension of this proposal to all companies irrespective of their market capitalisation value, not only small and midcap companies. In this direction, EBF urges the EU Commission to put forward a wider proposal to review the investment research regime under MiFID and to introduce any initiative aimed at preventing investment research coverage decline, in particular on SMEs, taking stock of the results of the public consultation on MiFID II/MiFIR closed in May 2020.

Having said that, we provide below our comments on the proposal under consultation.

Pursuant to the amendments proposed, the option to jointly pay for the provision of execution services and the provision of research is allowed provided that three conditions are met. They are:

- before the execution or research services have been provided, an agreement has been entered into between the investment firm and the research provider, which identifies which part of the joint payment is attributable to research;
- the investment firm informs its client about the joint payment;
- in case of research as referred to in paragraph 10, point (a), the execution services for which the joint payment is made are exclusively on issuers which did not exceed a market capitalisation of EUR 1 billion during a period of 12 months preceding the provision of the research.

We consider that such conditions to be met are too burdensome and will impose new requirements, in addition to the current ones already in place, and are in some cases too complicated to be applied in practice or even unclear.

The new requirements will need to set up complicated and burdensome ad hoc procedures to differentiate and allocate payments regarding execution services on small and mid-cap and fixed income research separately from the payments related to execution services concerning other types of investment research.

We would also highlight that such new procedures will add on to the procedures already in place, thus creating a sort of duplication. This acquires even more relevant if you consider the very narrow scope of the proposal (only SME/MidCap and fixed income research).

Furthermore, some of the conditions are not clear:

- i) in case of small and mid-cap research, who has to calculate the market capitalisation during the period of 12 months preceding the provision of the research? Moreover, it is not clear how to calculate market capitalization in practice e.g. which metrics to use and which exchanges to consider. Moreover, referring to the 12 months preceding the provision of research risks being

- problematic and due to the “dynamic” nature of this requirement a margin of error – although unintentional – in calculations cannot be ruled out.
- ii) which kind of obligations (if any) investment firms should comply in terms of record-keeping and adaption of their internal systems (e.g. a requirement to keep stock of their agreements)?
 - iii) What is in the scope of «fixed income instruments»: does it cover rate, credit and loan but also economics, FX and commodities? What about equity derivatives?

We would also invite the EC to clarify whether any obligation shall arise for investment firms in their written policies under Article 13 paragraph 8, to specify that, they are entitled to make use of the “optional exemption” provided for by the paragraphs 10 and 11 of Article 13.

As far as the fixed income research framework is concerned, changes should be carefully assessed and envisaged only if they will not add more complexity to the financial industry.

In conclusion, we believe that the proposal goes in the right direction by introducing an optional bundling regime for small and mid-cap investment research. However, we believe that the scope of the proposal should be extended to all companies and such proposal should be simplified, lowering the conditions to which such regime is subject, in order to make it easier to use by investment firms. To this aim, the Commission should take into consideration the possibility not to introduce the agreement between the research provider and the investment firm, which will alleviate the administrative burden.

About EBF

The European Banking Federation is the voice of the European banking sector, uniting 32 national banking associations in Europe that together represent some 4,500 banks - large and small, wholesale and retail, local and international - employing about 2.1 million people. EBF members represent banks that make available loans to the European economy in excess of €20 trillion and that securely handle more than 300 million payment transactions per day. Launched in 1960, the EBF is committed to creating a single market for financial services in the European Union and to supporting policies that foster economic growth.

www.ebf.eu @EBFeu

For more information contact:

Pauline Guérin
Senior Policy Advisor
p.guerin@ebf.eu
+32 2 508 37 32