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EUROPEAN COMMISSION'S TARGETED CONSULTATION ON OPTIONS TO ENHANCE THE SUITABILITY AND APPROPRIATENESS ASSESSMENTS

The Nordic Securities Association (NSA)¹ has the following general comments to the European Commission's (Commissions) targeted consultation on options to enhance the suitability and appropriateness assessment.

- The NSA is concerned with the fact that the consultation paper contains almost no background information regarding the problems that the Commission seeks to address. Since the new enhanced client allocation regime is not described in detail in the consultation paper, we have also found the proposals very difficult to analyse.
- In our view, the current suitability and appropriateness regime in MiFID II work well and we do not see any benefits with introducing a new regime. Instead we see a clear risk that it will be both very costly and complex to implement without adding any value such as a higher level of investor protection or increased retail engagement.
- According to the NSA, it is very important to avoid that this initiative leads to the introduction of a standardized "one-size fits all approach" that does not work in practice (cf. PRIIPs), and which could have unintended negative consequences for retail investors and EU-market as a whole. In order to avoid this, more work needs to be done to clarify the scope in terms of the type of client (retail vs professional) type of products (investment vs hedging) and type of services (advisory vs non-advisory) to be covered. Further clarification is also needed on the linkage between this proposal and the current regime in MiFID II and IDD, e.g. suitability, appropriateness and product governance rules.
- One particular area of concern is the proposed "portability regime" which we understand to include a mandatory requirement for investment firms to apply an allocation regime that has been determined by another firm. Such proposal would in our view be unworkable in practice and it leads to a number of very serious legal concerns from a liability, competition and data protection perspective.

Based on the above, the NSA is unable to support the Commission's proposals as presented in the consultation paper. Additional work needs to be done in order to clarify what this new regime intends to achieve, what is the scope and how it relates to the existing EU-framework. This should be followed by an in-depth cost/benefit analysis. The NSA is of course happy to be of assistance in this forthcoming process and hope that our experience from securities markets with very active retail participation can be useful./.

¹ NSA is composed by the Danish Securities Dealers Association (Børsmæglerforeningen), the Finance Finland (Finanssiala ry), the Norwegian Securities Dealers Association (Verdipapirforetakenes Forbund) and the Swedish Securities Markets Association (Föreningen Svensk Värdepappersmarknad).