

Re: Representative actions for the protection of the collective interests of financial consumers as individual investors

to the attention of

His Excellency, Mr. Goran Štefanić, Ambassador

Deputy Permanent Representative of the Republic of Croatia to the EU

Mr. Adrián Vázquez Lázara

Chair of the Committee on Legal Affairs (JURI) of the European Parliament

Brussels, 10 June 2020

Dear Mr. Štefanić,

Dear Mr. Vázquez Lázara,

Dear Honourable members of the JURI Committee of the European Parliament of the European Union,

Dear Honourable Deputy Permanent Representatives,

We are writing to you to reaffirm the necessity of creating a pan-EU collective redress mechanism that does not exclude European citizens as financial consumers and individual investors and enables them to obtain compensation for the damages incurred. This is crucial in the area of financial services where complex products have a serious impact on the quality of life of active and retired citizens. Moreover, due to the lack of an effective redress mechanism many financial consumers as investors are *de facto* unable to exercise their rights.

The [Final Report of the High-Level Forum on the Future of the Capital Markets Union](#), organised under the auspices of the European Commission, was published today and includes **collective redress** as a key recommendation to restore the trust of financial consumers, ensure proper enforcement mechanisms and attract more investments from EU households in the real economy via capital markets:

“The HLF calls on co-legislators to not discriminate individual direct investments by retail investors in equity and fixed income instruments, by including them in the scope of the Directive on representative actions for the protection of the collective interests of consumers (COM/2018/0184) or (COD/2018/0089), through the inclusion of MAR,¹ and SRD² in its Annex I.”³

We reiterate that it is crucial, in order to ensure a high level of consumer protection in the EU (as per Art. 38 of the Charter of Fundamental Rights of the EU), that EU citizens as direct or indirect investors, must have indiscriminatory access to collective enforcement mechanisms that are flexible, efficient and that can truly be used in practice by consumer representative organisations at local and on a cross-border level.

The current provisions of the proposed Directive falls short of such a mechanism, in particular through the stringent conditions attached to the authorisation of “*eligible entities*” and through the scope of coverage (defined by Annex I), which excludes all **direct individual, non-professional (“retail”) investors** into

¹ MAR stands for the Market Abuse Regulation, i.e. Regulation (EU) No 596/2014 of the European Parliament and of the Council of 16 April 2014 on market abuse (market abuse regulation) and repealing Directive 2003/6/EC of the European Parliament and of the Council I and Commission Directives 2003/124/EC, 2003/125/EC and 2004/72/EC, ELI: <http://data.europa.eu/eli/reg/2014/596/oj>.

² SRD stands for the Shareholders Rights Directive, i.e. Directive (EU) 2017/828 of the European Parliament and of the Council of 17 May 2017 amending Directive 2007/36/EC as regards the encouragement of long-term shareholder engagement, ELI: <http://data.europa.eu/eli/dir/2017/828/oj>.

³ Footnote references added; Final Report of the High-Level Forum on the Future of the Capital Markets Union, ‘A New Vision for Europe’s Capital Markets’, available [here](#).

capital markets, i.e. into listed equities and bonds. Moreover, the “*opt-out*” *adherence system* should be a requirement for all national transposition laws.

As the major EU public interest organisations working on “retail” financial services, we strongly urge all members of the JURI Committee of the European Parliament and of the Council of the EU to use the opportunity of the ongoing interinstitutional negotiations to ensure proper protection and enforcement mechanisms for all EU financial consumers without discriminating those who invest their savings directly into capital markets.

Yours sincerely,

Monique Goyens
Director General
BEUC

Guillaume Prache
Managing Director
BETTER FINANCE

C/c:

Ms. Paula Letunić, Financial Counsellor,
Permanent Representation of the Republic of Croatia to the EU

Mr. Ivan Palčić, Counsellor, Consumer Protection, Public Procurement, Competition
Permanent Representation of the Republic of Croatia to the EU

Secretariat of the Committee on Legal Affairs of the European Parliament

Secretariat of the Working Party on Consumer Protection and Information of the Council of the European Union

Her Excellency, Ms. Susanne Szech-Koundouros, Ambassador,
Deputy Permanent Representative of the Federal Republic of Germany to the European Union

Mr. Martin Küchler, Counsellor for Consumer Protection and Civil (Contract) Law
German Permanent Representation to the EU