Response of the Netherlands – European Commission Consultation – Capital Markets Union Mid-Term Review

This is a joint reaction of the Netherlands Ministry of Finance, the Netherlands Ministry of Economic Affairs, the Netherlands Authority for the Financial Markets and De Nederlandsche Bank, each institution with their own role and responsibilities.

General remarks
The Netherlands Ministry of Finance, the Netherlands Ministry of Economic Affairs, the Netherlands Authority for the Financial Markets and De Nederlandsche Bank agree with the European Commission on the priority areas of the action plan on building a Capital Markets Union (CMU), namely: 1) financing for innovation and start-ups, 2) lowering barriers for access to capital markets, 3) long-term investing, 4) widening the investor base for Small- and Medium-sized Enterprises (SMEs), 5) fostering retail investment and innovation, 6) strengthening banking capacity, and 7) supervisory convergence and the European Supervisory Authorities (ESA's).

In line with the earlier communication from the Commission in September 2016, we support the continuation of the swift application and implementation of the actions lined up in the action plan CMU by all stakeholders involved. The upcoming review of the legislation surrounding investment funds is a key issue in further fostering the CMU-agenda. The reporting on unjustified barriers in the internal market is a welcome step to identify and tackle impediments. Also, the review of the cumulative impact of legislation should be continued as well as the implementation of the outcome of the Call for Evidence that was launched together with the Action Plan CMU. We look forward to the upcoming communication on FinTech by the European Commission and encourage the European Commission to include good practices in member states in its approach to new entrants and innovation in the financial sector in Europe. The establishment of the Financial Technology Task Force is welcomed, as a broad, multidisciplinary view on FinTech is needed.

We propose additional actions on the disclosure of information, financial reporting, sustainability, and European oversight and supervisory convergence. On the intention to move towards a standardized European personal pension product we are positive on the goal to increase individual pension savings in particular Member States with less established systems as this can support sustainable public finances and social systems. Nonetheless, we would like to see further clarification why a standardized product is a necessary and effective measure, on top of the already existing harmonized European frameworks for banks, insurers and investment funds. The Netherlands, furthermore, wishes to stress that an individual third pillar pension product should not interfere with established state and occupational pension systems in member states nor should it oblige changes to the existing fiscal facilitation of individual third pillar pension products.

Concluding, the Netherlands Ministry of Finance, the Netherlands Ministry of Economic Affairs, the Netherlands Authority for the Financial Markets and De Nederlandsche Bank support the stated goals of the Capital Markets Union, namely the diversification of sources of financing for businesses in Europe, the improvement of allocation of capital within the European Union and making it easier for investors to invest across borders. We urge the European Commission to continue with the work on the different initiatives that are part of the action plan on building a Capital Markets Union.

Are there additional actions that can contribute to fostering the financing for innovation, start-ups and non-listed companies?

Please propose complementary policy measures, explain their advantages, and illustrate any foreseeable challenges to their implementation.

We welcome the actions taken to promote diversification of the sources of funding, for example with the proposals for the European Venture Capital Funds regulation. We support the initiatives to explore venture debt and other ways to support new financing options for growing companies (scale ups). We welcome the actions to address the information barriers between SMEs and prospective investors and lenders. It is important that the high level principles to strengthen the feedback of banks on SME credit applications lead to concrete results.

Regulatory guidance by legislators and supervisory authorities could help market participants to comply more effectively with the current regulatory framework. Especially for smaller entities and new entrants, regulation can be made more accessible in order to foster innovation and competition in the market. Supervisory authorities, both on the national and European level, could focus more on guidance that is less technically worded concerning actions necessary in order to comply with the relevant legal requirements.

Are there additional actions that can contribute to making it easier for companies to enter and raise capital on public markets?

Please propose complementary policy measures, explain their advantages, and illustrate any foreseeable challenges to their implementation.

Many SMEs are confronted with considerable challenges to align their financial reporting with the requirements for the provision of the necessary information for a prospectus, which may be needed to offer securities to the public. By raising awareness among SMEs well ahead of an eventual raise of capital on public markets, more companies may be enabled to diversify their sources of financing. In this framework, it could be useful to look into possible convergence between the general requirements for financial reporting for SMEs and the financial reporting required to issue securities, without unnecessary burdens for SMEs. Best practices' sharing in this respect among Member States may provide a good starting point. Furthermore as stated before, both national and European regulators could make regulation more accessible by providing more guidance and interpretations focused on companies new to capital markets.

Are there additional actions that can contribute to fostering long-term, infrastructure and sustainable investment?

Please propose complementary policy measures, explain their advantages, and illustrate any foreseeable challenges to their implementation.

We welcome the work of the European Commission on long-term investing and investments in infrastructure, with the adjustments of delegated acts and the regulation for European Long-Term Investment Funds. Furthermore, we support the work of the Commission on sustainability with the High Level Expert Group (HLEG) on sustainable investment. In this respect, De Nederlandsche Bank has made recommendations to the HLEG to develop and deploy measures to bring sustainability considerations into mainstream finance.

Are there additional actions that can contribute to fostering retail investment?

Please propose complementary policy measures, explain their advantages, and illustrate any foreseeable challenges to their implementation.

Retail investment services have been hampered by relatively poor consumer offerings and disappointments that have discouraged (potential) investors, such as the contracts for difference ("spreadbetting"). This reluctance of investors leads to lower amounts of capital available for companies. Moreover, consumers are paying relatively much for their investment services. Traditionally, consumers are offered quite costly fully managed active investment models which often offer no proven value added over more simple and cheaper buy-and-hold diversified portfolio strategies. Traditional offerings tend to carry cost levels of up to 200 basis points over assets, while modern concepts, supported by sensible use of technology, can reduce these cost levels to 75 basis points or less. When well understood, the needs of retail investors are quite simple, while the industry keeps investing quite complex in order to boost their earnings. This not only raises costs, but confuses consumers, who turn away from sensible investment strategies. Products should have added value, should be geared towards consumers' needs, and should be tailored to their risk appetite. The needs of the overwhelming majority of consumers are:

1. Provide sufficient income for old age
2. Accumulate or retain assets for other future uses

What most consumers really need is inexpensive, simple and diversified products and services that serve these 2 goals. What has been quite surprising is that current product offerings do not always serve these needs adequately.

Fortunately, MiFID II offers several improvements in its legal framework that could address this issue. One of the new requirements in MiFID II is the introduction of Product Oversight and Governance rules. These rules require that products need to be developed for a targeted customer groups. And the distributor needs to ensure that the financial instrument is offered only when this is in the interest of the client. This should promote more modern and suitable products and services. National supervisors can use these rules to question old products and service offerings and promote the introduction of more suitable consumer strategies. As a result, we do not feel that additional legislative actions are now required at a European level. What is required is a good application of the MiFID II rules, which will come into force in 2018, in order to foster new business models and consumer offerings.

Are there additional actions that can contribute to facilitating cross-border investment?

Please propose complementary policy measures, explain their advantages, and illustrate any foreseeable challenges to their implementation.

In order to reduce barriers for cross border capital flows, it is key that the application of European regulation is predictable and consistent across borders, especially looking at the current market dynamics. Supervisory convergence, supported by the ESA's, is already important in this respect. The European Commission should examine how the role of the ESA's, especially ESMA, could be strengthened further in light of diverging application of current common legislation by supervisory authorities and regulatory competition between member states by considering which supervisory tasks on specific areas could be organized more effectively within a European context. This can be taken into account in the upcoming White Paper on the governance and financing of the ESA's.