

EU Retail Investment Strategy: First Takeaways from the Co-Legislators' Press Releases

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After years of negotiations, the European Parliament and Council (the “Co-Legislators”) have finally reached a political agreement on the EU’s Retail Investment Strategy package (the “RIS”), introducing targeted amendments to various EU regulations, including the Alternative Investment Fund Managers Directive (AIFMD), the Markets in Financial Instruments Directive (MiFID) and the Regulation on packaged retail and insurance-based investment products (“PRIIPs”), via on Omnibus Directive. The final legal text of the Omnibus Directive and related measures reflecting the compromise has not yet been published. We will assess the actual impact for private fund sponsors once the agreed text is released.

The amendments to be introduced intended to have a significant effect on the availability of private funds to retail investors. In the context of the so-called “retailisation” of private funds, which has received a firmer shape through the revised rules for European Long Term Investment Funds, the RIS amendments were expected to mark another milestone for what is often called “democratization” of capital markets. Based on the Co-Legislators’ press releases, the result is rather disappointing. We summarize the key announcements herein.

After further technical work, the final text of the RIS amendments is expected to be released in early 2026; member states will have 24 months from the EU’s Official Journal publication to transpose the amendments into national law.

RIS—RELEVANT POINTS THAT HAVE BEEN AGREED

According to the Co-Legislators’ press releases, the RIS seeks to improve retail participation while strengthening investor protection, *inter alia* by (i) value-for-money oversight and disclosures under PRIIPs, (ii) updated rules on inducements for distributors and (iii) alleviating the opt-up professional investor thresholds.

Value-for-Money Oversight / Disclosures Under PRIIPs

The press releases indicate that value-for-money oversight will now be enforceable with the development of a supervisory benchmark for the justifiability and proportionality of costs borne by investors. Financial products, including funds, with costs that, according to the supervisory benchmark, are not justified and proportionate shall then not be approved for sale to retail customers.

The key investor information document template, given by the PRIIPs Regulation, shall be amended to improve transparency on costs borne by investors, risks and expected returns. The goal of the amendments is to make these aspects “more visible and accessible” for retail investors. To increase comparability, the document shall in the future be provided to investors in a machine-readable format. The legislative update of the template is currently in progress and will be provided by the European Supervisory Authorities.

It is to be seen whether that is going to improve the comprehensibility, which is already difficult today.

Inducements

According to the press releases, the RIS further strengthens the transparency on inducements (i.e., any fee, commission or non-monetary benefit received by a distributor or a placement agent in relation to arranging an investment made in a fund) but does not introduce a ban. The Co-Legislators are however clear that member states are free to introduce a ban of inducements on their own.

A ban on inducements has been a point of discussion in EU member states for many years, with countries like the Netherlands or Denmark having introduced bans. It can be expected that the Co-Legislators’ note on the possibility of a ban under the RIS will restart discussions across Europe. A ban would be problematic in the context of engaging distributors and placement agents.

Opt-Up Professional Investor Thresholds

For a long time, the thresholds to qualify as a professional investor were identified as being one of the major issues for access to private markets. The current thresholds, *inter alia*, require opt-up investors to have made 10 transactions on average per quarter over the past five years, which is hard to meet for opt-up investors in a private-market environment due to lesser transaction frequency and higher commitment requirements.

The press releases state that the criteria for “opt-up” professional investor status will be recalibrated with the aim of facilitating appropriate access for experienced retail clients.

The updated thresholds would be as follows (**two out of the three criteria** have to be fulfilled):

- Carried out 15 significant transactions over the last three years, 30 transactions over the previous year, or 10 transactions over EUR 30,000 in unlisted companies over the last five years;
 - *Currently: 10 transactions per quarter on average over the previous five years.*
- The size of the portfolio has exceeded EUR 250,000 on average over the last three years;
 - *Currently: EUR 500,000 at the time of the investor's request for opt-up.*
- Have worked and carried out related activities in the financial sector for at least one year or can provide proof of education or training in these activities and an ability to evaluate risk.
 - *Currently: Only working experience counts, i.e., educational background alone does not fulfill the criterion.*

PRACTICAL IMPLICATIONS FOR PRIVATE FUND SPONSORS

With heightened interest in retail capital appreciation, the RIS is also interesting for private fund sponsors. While the exact legal text has not been revealed yet, the available information summarized above already gives some guidance.

For the **anticipated supervisory benchmark on costs**, it has unfortunately not been confirmed whether separate benchmarks will be created for different types of fund strategies; private fund strategies have a different cost structure from liquid funds and should thus, not be compared to each other. For now, private fund sponsors with interest in the retail market, should take a close look at the market practice for costs of current private market retail funds, to gain an understanding for what such a benchmark could demand for their current or future funds. This can be a challenge in a blind pool scenario, where it is difficult to foresee costs borne by the fund.

The **updated rules on inducements** should lead private fund sponsors to again review their current arrangements with distributors and placement agents. By some political stakeholders, inducements are seen as a conflict of interest, due to different incentives between investors and distributors. Therefore, the legislator had started to require

inducements to be given only when these relate to an enhancement of service quality for investors and when they are fully disclosed to investors. The press releases announce that a new “inducement test” will be introduced, under which third-party inducements are only acceptable if they demonstrably enhance the quality of service to the client and if conflicts of interest are effectively mitigated; beyond that, it does not detail specific bans or granular rule changes. While the RIS will not change the concept of the inducement having to be beneficial for the service provided or being fully disclosed to retail investors, national competent authorities may have a closer look on these arrangements and how well they are documented and disclosed to investors. It should be kept in mind in this context that the European Supervisory Authorities as well as national competent authorities have a high interest in the protection of retail customers. According to the press releases, supervisors will also gain stronger tools to review product pricing, advice delivery, and whether consumers get “value for money”, which will likely tighten scrutiny of high-cost, commission-rich products.

The ***new opt-up professional investor thresholds*** will bring some improvement in that it is slightly easier to qualify private investors as professional investors and hence give private fund sponsors more opportunities to admit private investors into their current professional investor funds, without having to setup a new dedicated retail investor fund for a specific group of investors. However overall, the changes are disappointing and do not really address the concerns raised and leave many questions open. The new criterion on sufficiency of education background will enable further involvement by fund sponsors employees, but it remains to be seen what is going to be recognized as sufficient in terms of ability to recognize risks.

It is to be hoped that the national approaches of some member states on ***so-called “semi-professional investors” (e.g., in Germany, Luxembourg, Sweden or Finland)*** remain in place with lower opt-up professional investor thresholds. Even if these new “semi-professional investors” will have to be treated as retail investors for the purposes of PRIIPs and may additionally trigger the new RIS rules (e.g., funds costs’ compliance with upcoming supervisory cost benchmark), it is helpful to have such additional extension.

RIS—TIMELINE AT A GLANCE

- Political agreement reached; technical finalization of legal texts targeted for early 2026.

- Post-publication, member states have 24 months to transpose amendments into national law; PRIIPs amendments will apply directly per the regulation's application date.

CONCLUSION

The RIS as announced in the press releases will not transform private funds into retail products, but they will materially increase the legal possibilities for private funds to admit retail investors. However, the legal possibility, as before, comes with heightened requirements and risks (e.g., supervisory cost benchmark, added transparency through new PRIIPs templates or inducement justification). The legal possibility therefore will have to be assessed for economic suitability, given these requirements. It remains to be seen, how the market will react to the publication of the final RIS and whether private funds for retail investors will be successful in the regulatory environment.

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Please do not hesitate to contact us with any questions.



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