

Comments from Raiffeisen Capital Management (RCM) on the Report of the Expert Group on Investment Fund Market Efficiency

Raiffeisen Kapitalanlage-Gesellschaft m.b.H, Vienna, Austria
(Raiffeisen Capital Management)

1. Preface

Raiffeisen Capital Management („RCM“) appreciates the opportunity to be able to provide comments on the “Report of the Expert Group on Investment Fund Market Efficiency” that handles crucial issues for the future of the investment fund industry. This industry has - in the past - indeed experienced a success-story by a multiplication of its assets under management. Nevertheless this should not prevent the industry to think about necessary reforms of the UCITS-Directive. Higher competition and an increase of cross-border distribution will make improvements of the UCITS-Directive indispensable to maintain and strengthen the reputation of the brand name "UCITS-fund".

RCM agrees with the Expert Group that there are several inefficiencies that have to be tackled, like the time-consuming and formal process of notification, the lack of "economies of scale" in the fund industry, the problems in the fund order processing and various tax barriers.

With respect to the content of the Report RCM wants to point out some of its fundamental principles that are crucial for the future of the investment fund industry:

- Maintaining high standards within the investment fund industry, like a high level of investor protection, transparency of the product and the company, a sound investment spectrum of the investment fund.
- Improving the existing UCITS-Directive before implementing wholly new legislation.
- Preventing - under the keyword of “efficiency” - a displacement of competition to “big players” and thereby discriminating smaller competitors.
- Avoiding regulatory arbitrage through fostering the harmonisation of legal regulations within the Member States and intensifying the cooperation of the regulators throughout the EU.

- Creating a real “level playing field” of comparable retail saving products and securing a fair competition within the increasing numbers of these products.

2. Getting products to the market more quickly

A crucial step towards the facilitation and increase of cross-border distribution of investment funds is the simplification and harmonisation of the notification procedures within the Member States. Uniform standards would be needed since the existing different requirements within the Member States lead to a distortion of competition and comparability. Some Member States, for example, require authorised translations of all needed documents, for others a simple translation is sufficient; moreover the costs of the Authority hugely differs among the Member States, amounting from up to €65.000 to none.

A standard definition of the documents to be submitted for the fund-notification with a uniform fee would be desirable, like:

- Prospectus (incl. simplified prospectus plus local appendix)
- Fund regulations
- Annual and semi-annual fund reports
- EU conformity certificate
- Simple translation of all documents

Some Member States require the payment and distribution agent to keep a unit holders’ register. This requires a corresponding reporting system that is especially burdensome for those jurisdictions that do not envisage this feature. In principle the function of the payment and distribution agent to guarantee issuing and redemption of the fund in the target country should be rethought since this is anyway provided by the custodian bank. The payment and distribution agent should not constitute a transaction monopoly, which would be an obstacle for distribution.

Ultimately and in the medium term the cross-border distribution should be free of any additional notification if the investment fund has been once approved in the Home Country.

3. Facilitating UCITS mergers, Allowing pooling techniques

Fund pooling and cross-border merger could bring advantages, especially it could lead to a consolidation of the European fund industry and resulting in economies of scale and to an increase of cost-efficiency.

This should be done through the adaptation of the UCITS-Directive to grant uniform implementation. Nevertheless subjects of taxation and regulation remain unsolved and have to be tackled before. It is furthermore evident that the advantages of cross-border pooling and cross-border merger mainly apply to the industry's "big players".

4. Making the Management Company Passport work

In principle and in the medium term RCM welcomes the ability for a management company to establish and manage a UCITS-fund constituted in another Member State - regardless of its legal structure - by means of a branch or under the freedom to provide services. However, to take full advantage of the economic efficiency, it would require more convergence of the different legal and regulatory frameworks, especially it requires an increase of the cooperation of the regulators within the Member States. This is especially necessary to avoid regulatory arbitrage.

5. More freedom for the Depositary

The introduction of the passport for the depositary could bring benefits to the industry in fostering the economies of scale. However certain difficulties have to be overcome, especially the necessity to promote the level of harmonisation within the Member States. This is especially crucial as the depositary serves as the controlling entity of the investment fund and that implies deep knowledge of the complex local regulations. The passport for the depositary would also mean a challenge to the national regulator having to audit the depositary without the underlying investment fund in the same jurisdiction.