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Press and Communications

Press release

The Joint Committee of the ESAs reminds financial institutions of their responsibilities when placing their own financial products with consumers.

ESMA underlines risks from investing in contingent convertible instruments (CoCos).

The Joint Committee of the European Supervisory Authorities (EBA, EIOPA and ESMA) published a reminder to banks and insurance companies across the EU on the consumer protection requirements that apply to certain financial instruments they issue. In addition, ESMA highlighted specific risks posed to investors by contingent convertible instruments (CoCos).

As part of their mandates to protect investors, depositors and policyholders, EBA, ESMA and EIOPA have analysed the practices employed by some financial institutions to comply with the new EU capital rules and requirements. These practices concern institutions engaging in 'self-placement', i.e. placing with their clients financial instruments that they, or their group companies, have issued and that are eligible to comply with specific prudential requirements. The ESAs have stressed that these practices may breach some of the rules governing financial institutions and may result in significant consumer detriment. Institutions should not allow the pressure on their capitalisation needs to affect their compliance with EU requirements in terms of provision of services to consumers.

In particular, the Joint Committee noted that the *loss bearing* features of many self-placement products expose consumers to significant risks that do not exist for most other financial instruments, such as the risk of having to share losses (risk of bail-in). Furthermore, these products often lack fully harmonised structures, trigger points and loss absorption, making it difficult for consumers to compare them with other financial products and to fully comprehend what they are buying.

The Joint Committee reminded financial institutions across the EU about their responsibility to comply with rules governing conflicts of interest, remuneration, provision of advice and suitability and appropriateness of products. Respecting consumer needs and demands, as well as providing

investors and customers with appropriate information, remains compulsory for financial institutions.

Furthermore, ESMA issued a separate additional statement on potential risks associated with contingent convertible instruments (CoCos), a specific category of instruments issued by financial institutions to comply with their prudential requirements. CoCo structures are highly complex and are non-homogenous in terms of trigger levels, necessary capital buffer levels and loss absorption mechanisms. While they can play an important role in inhibiting risk transfer from debt holders to taxpayers, it is unclear as to whether consumers fully understand the potential risks and are capable of correctly factoring these into their decisions.

As investing in CoCos requires a sophisticated level of financial literacy and a high risk appetite, these may not be appropriate for retail investors and ESMA recommends that investors take into account the relevant risks before investing.

The full text of the Joint Committee's Reminder has been published on the websites of the EBA, EIOPA and ESMA.

Note to editors

The European Banking Authority (EBA), European Securities and Markets Authority (ESMA) and European Insurance and Occupational Pensions Authority (EIOPA) are collectively known as the three European Supervisory Authorities (ESAs). Their Joint Committee is a forum through which they cooperate regularly and closely to ensure consistency in their work.

The objective of the European supervisory authorities is to improve the functioning of the EU internal market by ensuring appropriate, efficient and harmonised European regulation and supervision, including the protection of consumers, investors and policyholders.

The new EU capital rules and requirements referred to above are the Capital Requirements Directive IV (CRD/R IV), the upcoming Bank Recovery and Resolution Directive (BRRD), Solvency II, as well as the ongoing work on the EBA and ECB stress test and the ECB's comprehensive assessment.