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Discours de Robert Ophèle, Président de l'AMF - Assemblée Générale de l'EFAMA (European Fund and Asset Management Association) - 21 juin 2019 (en anglais uniquement)

Seul le prononcé fait foi

It's an honour and a pleasure to give the opening speech at your General Assembly. EFAMA is a key asset for European markets, providing a fruitful representation of the investment management industry with acute analysis, useful statistics and valuable proposals. Let me share some thoughts with you on the current challenges facing the asset management industry.

Throughout the world, after the financial crisis and the strengthening of banking regulation we have seen a transfer of financial intermediation from the banking industry to the asset management industry. In Europe we still lag behind the US where assets under management at Blackrock are more than twice the size of JP Morgan's balance sheet. This said, AUM at AMUNDI are already close to the total assets of BNPP.

While this growth represents a welcome alternative source of financing for our economies, with it comes new questions, new expectations and new responsibility at a time when the development of ETFs - and in Europe, where it is just beginning - and the possible recourse to DLTs, will profoundly modify distribution channels, exacerbate competition and put greater pressure on margins.

Among the new questions associated with the development of asset management, I could mention the possible consequences of passive investment and common ownership but I will not elaborate on these since, to some extent they are not specific to your industry; similar types of question are triggered over the direct management by many large institutional investors of their assets. The increase in Assets under Management has been such that central banks and prudential regulators have been questioning the ability of this industry to amplify or dampen the effects of a shock in the event of a crisis, thus potentially putting financial stability at risk. For many, despite the abandoning of the term "shadow banking", the next financial crisis will come from the asset management industry. Therefore, the appropriateness of the usual supervisory framework, dealing with liquidity and leverage, the effectiveness of crisis management tools, such as gates and swing prices, and even the possibility to implement macro-prudential measures are on the agenda of many international fora, be it IOSCO, the FSB or the ESRB. This issue is also on the agenda of the French High Council for Financial Stability. Let me just say, at this juncture, that the European regulatory framework appears largely adequate; the AMF intends to share its analysis on a macro-prudential approach of asset management activities later this year.

I will concentrate these introductory remarks on two sets of issues which, I do believe, should be addressed in the next few years and which directly target the asset management industry: first, more consistency and harmonization of regulation, supervision and enforcement in the EU and second, making sustainable finance a reality.

In March you released policy recommendations for the next European Commission; earlier this month and in a similar vein, we, at the AMF, laid out preliminary proposals to kick off a discussion with our colleagues from around the EU and all stakeholders on where the next Commission's priorities should lie.

In a challenging context, European players need to be able to scale up. But, in order to do this, there needs to be more consistency between the EU Member States on the applicable rules to support the attractiveness of the European market and the ability of its managers to compete in a global industry. In that context, regulation should not constitute an obstacle to the development of truly European managers. On the contrary, consistency and harmonization of regulation and supervisory practices is crucial, not only to ensure a level playing field within the EU, but also to support the emergence of European champions.

More specifically in the field of asset management, we have made the following proposals:

First, to consolidate existing requirements applicable to EU asset managers and make the framework more readable and stable. Our suggestion is to take the opportunity to review AIFMD, to streamline the rules that apply to an asset manager in the EU by pulling together those requirements that are in the UCITS Directive and in AIFMD in order to have a single set

of rules for the supervision of entities involved in the management of collective investment schemes. This would create an opportunity to make only some targeted changes to the existing framework in order to strengthen it, or in some cases, provide clarification. It would also help improve the quality of the EU rulebook and its ability to evolve at the same pace and not depending on/according to which text is being reviewed.

Benefits would include:

- Adopting a simpler architecture based on a set of common rules for asset managers, building on the existing framework. Each manager would then apply the product rules corresponding to the different product it wishes to manage (UCITS, MMF, ELTIF, etc.);
- Making targeted improvements by improving clarifying and aligning elements such as reporting requirements, first for AIF and thereafter for UCITS, remuneration rules, leverage calculation, delegation where there is a clear need to align UCITS framework on AIFMD;
- Better articulating different regulations (ex: MiFID vs AIFMD/UCITSD, PRIIPS).

One point I would like to stress in particular is the need for the EU27 to focus much more on our common goals and what makes us collectively stronger rather than looking at our differences. That being said, given the structure of this industry with a high degree of interconnectedness between jurisdictions with a manager in one member state, portfolio management delegated in another, the fund domiciled in a third and the fund distributed throughout the EU, there needs to be sufficient harmonization for the passport system to continue to function smoothly. This is particularly critical for UCITS where the strength of the brand, one of the most successful EU products, depends on our ability to ensure rules are applied in a similar way across the EU, to avoid overlapping responsibilities between National Competent Authorities and to eliminate jurisdiction shopping.

This brings me to our second proposal related directly to the asset management sector: there is a need to update the Eligible Assets Directive, probably to move from a directive to a regulation, in order to clarify and modernize its provisions in support of the UCITS brand.

These rules date back to 2007. Since then, new instruments and management techniques have emerged that have given rise to different interpretation by national supervisors. It would make sense to revisit them.

This means clarifying the provisions that give rise to different interpretations. These differences create unhelpful regulatory arbitrage and barriers to a truly pan European strategy.

UCITS cannot be a stable successful international brand if we cannot agree at EU level on eligibility of assets, determining precisely which assets are non-eligible, to which extent you can be exposed to non-eligible assets. For example, the digitalization of assets, with currency, utility and security tokens, makes it even more necessary to clarify the treatment of Delta One certificates.

Sustainable finance is our second priority

Going forward, the asset management industry has a key role to play to make the European ambitions for sustainable finance a reality. This shift will require fundamental changes to current set ups. It constitutes a real challenge for market participants and regulators alike. They also constitute a great opportunity for the EU to take the lead. We already hear that a number of large asset managers have announced their intention to take ESG factors into account throughout their entire product range. I very much welcome the recommendations you have made in this direction.

The asset management industry shall accompany the Commission action plan for sustainable finance and facilitate the emergence of sustainable finance as the mainstream strategy.

We need to build up a strong and non-fragmented single market in this area which depends on the completion of a consistent regulatory framework. Some issues remain to be covered; let me mention some of them:

The framework defining what can be considered an environmentally sustainable activity needs to be finalized; this taxonomy is necessary in order to measure in a fair and comparable manner the efforts made in investing into sustainable activities; the TEG has just released its proposal for consultation; I understand that comments are welcome on this very substantial report.

The possible regulation and oversight of third-party certification firms and non-financial rating agencies should be also investigated as their role becomes more and more important in the market. Mainly financed by issuers, they probably deserve specific regulatory frameworks similar to the frameworks for audit firms and credit rating agencies, in order to ensure the seriousness and transparency of their methodologies and the proper management of conflicts of interests.

Finally, a proper look at non-financial standard setters would also be necessary, with a view to endorsing the standards by a European authority, where necessary.

Nevertheless, in any case, you will need to:

- develop your expertise in this field (data analysis, impact on valuation methodology, asset selection),
- strengthen your due diligence on ESG data vendors,
- build reporting in a meaningful and sufficiently transparent manner to help investors differentiate between different offers,
- weigh and rank the labels one against the other and facilitate the emergence of the most relevant references.

As supervisors we will focus on four areas:

First, fully implementing the non-financial reporting requirements for listed companies; the 2014 European Directive and the 2017 associated guidelines already provide a strong framework; the update of these guidelines, earlier this week, provides a decisive enhancement on climate information.

Second, preparing technical standards and implementing the now agreed European regulation on sustainability-related disclosures in the financial services sector. These requirements are by the way largely similar to the French requirements already in force, the so-called Article 173.

Third, implementing the now amended European benchmark regulation (BMR), with its focus on benchmark administrators and transparency requirements.

And finally, ensuring the proper integration of sustainability criteria in relations between the asset management industry and their customers. ESMA has recently finalized its technical advice to the Commission on the desirable amendments of Level 2 regulation of UCITS and AIF. Among other topics, they address issues such as how to define ESG client preferences and which changes are needed to the suitability test.

In fulfilling our remit we should avoid over-burdening market participants with unnecessary requirements - with the well-known proportionality principle in mind -and monitoring and, if possible, avoiding unintended consequences, such as cutting off a number of crucial economic sectors where transition is more challenging than others, from their financing.

As everyone no doubt understands, the next few years will be challenging. But I do believe that a consistent approach to asset management and to sustainable finance throughout the EU will be key achievable steps for the effective building of a Capital Markets Union.

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