The UK Shareholders' Association responses
to the EU's green paper on the proposed Capital Markets Union

Q1 Beyond the five priority areas identified for short term action, what other areas should be prioritised?

If individual (ie non-institutional) investors are to participate fully in CMU, the disenfranchised position of UK equity investors using pooled nominee accounts must first be understood and then remedied. UK law does not treat such investors as shareholders, even when their money has been used to purchase company shares of their own choice. The Shareholder Rights Directive is ineffectual for these investors, because they are merely beneficial owners, not shareholders. To be shareholders in UK listed companies their own names must be on company share registers, but when shares are held in a UK nominee account the name on the register is that of the nominee. Some 50 per cent of individual investments in company shares are now held in pooled nominee accounts and the number is growing because of tax inducements and stockbroker pressure.

Q19 What policy measures could increase retail investment? What else could be done to empower and protect EU citizens accessing capital markets?

The terms "retail" and "consumers" are inappropriate for investment. They betray a fixation with collective institutional investments that are sold as and even frequently described as "products". Any lack of appetite among individuals for placing their money directly into capital markets (if indeed that is the case) is properly attributable to poor if not absent financial education on the one hand and the strength of the financial services industry on the other. The concept of investment has become warped by lack of knowledge and understanding, combined with the favoured position of those who make a living out of other people's savings.

Intermediaries have their place, but should not be essential for achieving a better use of individual savings than deposit accounts, nor is this in the interest of savers or of the businesses they could be investing in. The objective of "strengthening financial literacy" should be to enable individuals to invest directly into individual businesses, not encourage them to place their savings with intermediaries whose only objective is to take a percentage. Financial literacy should include an understanding of what actually generates wealth, coupled with the knowledge that the closer an investor is to his or her investment the better chance he or she has of sharing in that wealth. By the same token, the closer an investor is to the business into which his or her money has been invested, the more likely it is to result in good governance.

Better financial literacy should also be designed to warn individuals of the dangers to watch for in the businesses in which they invest, but those who either choose to invest through intermediaries or are coerced into doing so (the latter being prevalent in the UK) need additional protection. The possibilities and potential consequences of custodian failure are receiving too little (if, indeed, any) attention in the UK and this must be remedied. An EU-wide mandatory minimum is required for lost and impaired equity investments as a result of custodian failure; this has been done for cash, but investments need a considerably higher level of protection. In the UK, despite it being well-known that individual portfolios in the hands of custodians can be worth £1 million or more, compensation available is limited to £50,000 and then only after potentially months of delay.

Such is the poor and even shocking performance of pension funds (as has been well documented by Better Finance), savers in the UK have been turning to tax-incentivised SIPPs (Self Invested Pension Plans) ISAs (Individual Savings Accounts) where they are better able to control their investments and secure a good return. Shockingly, though, whereas in a third-party administered pension fund 90 per cent of a saver's money is protected, there is no equivalent to this for those who no longer trust pension fund managers, prefer to trust themselves and yet are obliged to use pooled nominee accounts. Unfortunately for such savers, they too fall into the category of disenfranchised investors who have no shareholder rights, lack direct contact with the companies in which they are invested and depend on custodians for the security of their investments, with wholly inadequate financial compensation available should the custodian fail.

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