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European Commission  
Mrs Margrethe Vestager  
Commissioner for Competition  
Rue de la Loi / Wetstraat 200  
1049 Brussels

26.07.2019, Brussels

Dear Commissioner Vestager,  
Dear Margrethe,

On 24 April 2019, Italy adopted a decree putting into effect a public scheme automatically compensating shareholders of failed banks with financial assets up to 200,000 euros or annual income up to 35,000 euros, who would not need to demonstrate they were victims of mis-selling. Italy has argued that the compensation is justified because the retail savers who bought shares and subordinated bonds were not told how risky these securities were. The Italian government has set aside a compensation fund of 1.5 billion euros.

EBA and ESMA highlighted in their joint statement<sup>1</sup> that in cases of bail-in, the BRRD does not provide for a different treatment of eligible liabilities based on the nature of the holder. Resolution authorities are required to apply the bail-in tool according to the waterfall of liabilities established in the framework regardless of the nature of the holders of the debt. Therefore, debt held by retail investors is subject to loss in resolution together with that owned by holders of other *pari passu* liabilities.

In a recent interview<sup>2</sup> you were quoted stating that it was “absolutely justified” for Italy to compensate investors who lost money in recent bank failures.

Like you, we think that bail-in and the protection of retail investors who were victims of mis-selling are not incompatible. Retail investors should be compensated for MiFID violations they suffered. However, we are of the opinion that the money should come from the financial institution responsible, and if it has been subject to a resolution, from the resolution fund or the deposit guarantee schemes. The European Commission has allowed such public compensation schemes when it had been proven that investors were indeed misled and the banks could no longer handle the repayments themselves. But we are convinced that any automaticity in compensating shareholders of failed banks is a clear violation of the European bail-in rules. In particular, there should be a cap on reimbursement decided at EU level. 200,000 euros for shareholders do not seem to be an appropriate threshold given the 100,000 euros secured by the deposit guarantee scheme directive.

Therefore, we call on the Commission to analyse the compliance of the Italian decree with the European bail-in rules.

Kind regards,

Sven Giegold, MEP

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<sup>1</sup> EBA/Op/2018/03

<sup>2</sup> <https://www.bloomberg.com/news/articles/2019-05-03/italy-s-bank-investor-bailout-may-get-eu-nod-despite-protests>