

# Public consultation on a retail investment strategy for Europe

Fields marked with \* are mandatory.

## Introduction

This consultation is now available in 23 European Union official languages.

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### 1. Background for this consultation

The level of retail investor participation in EU capital markets remains very low compared to other economies, despite high individual savings rates in Europe. This means that consumers may currently not fully benefit from the investment opportunities offered by capital markets.

In its September 2020 [new capital markets union \(CMU\) action plan](#), the European Commission announced its intention to publish a strategy for retail investments in Europe in the first half of 2022. Its aim will be to seek to ensure that retail investors can take full advantage of capital markets and that rules are coherent across legal instruments. An individual investor should benefit from

- i. adequate protection
- ii. bias-free advice and fair treatment
- iii. open markets with a variety of competitive and cost-efficient financial services and products, and
- iv. transparent, comparable and understandable product information

EU legislation should be forward-looking and should reflect ongoing developments in digitalisation and sustainability, as well as the increasing need for retirement savings.

In 2020, the Commission also launched an [extensive study](#), focusing on the different disclosure regimes, the extent to which advice given to prospective investors is useful and impartial and the impact of inducements paid to intermediaries. It will involve extensive consumer testing, to ensure that any future changes to the rules will be conceived from the perspective of what is useful and necessary for consumers.

In line with the Commission's stated objective of "an economy that works for people", the Commission is seeking to ensure that a legal framework for retail investments is suitably adapted to the profile and needs of consumers, helps ensure improved market outcomes and enhances their participation in the capital markets.

The Commission is looking to understand how the current framework for retail investments can be improved and is seeking your views on different aspects, including

- the limited comparability of similar investment products that are regulated by different legislation and are hence subject to different disclosure requirements, which prevents individual investors from making informed investment choices
- how to ensure access to fair advice in light of current inducement practices
- how to address the fact that many citizens lack sufficient financial literacy to make good decisions about personal finances
- the impact of increased digitalisation of financial services
- sustainable investing

## Responding to this consultation and follow up

In this context and in line with [better regulation principles](#), the Commission is launching this public consultation designed to gather stakeholders' views on possible improvements to the European framework for retail investments.

Views are welcome from all stakeholders, in particular from persons/entities representing

- citizens and households (in their quality as retail investors)
- organisations representing consumer/retail investor interests
- complaint-handling bodies e.g. Alternative Dispute Resolution Bodies and European Consumer Centres
- credit institutions
- investment firms
- insurance companies
- financial intermediaries (investment/insurance brokers, online brokers, etc.)
- national and supranational authorities (e.g. national governments and EU public authorities, mandated authorities and bodies in charge of legislation in the field of retail investments)
- academics and policy think-tanks.
- entities seeking financing on capital markets

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**Please note:** In order to ensure a fair and transparent consultation process **only responses received through our online questionnaire will be taken into account** and included in the report summarising the responses. Should you have a problem completing this questionnaire or if you require particular assistance, please contact [fisma-retail-investment@ec.europa.eu](mailto:fisma-retail-investment@ec.europa.eu).

More information on

- [this consultation](#)
- [the consultation document](#)
- [retail financial services](#)
- [the protection of personal data regime for this consultation](#)

## About you

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### \* Language of my contribution

- ☐ Bulgarian
- ☐ Croatian
- ☐ Czech
- ☐ Danish
- ☐ Dutch
- ☒ English
- ☐ Estonian
- ☐ Finnish
- ☐ French
- ☐ German
- ☐ Greek
- ☐ Hungarian
- ☐ Irish
- ☐ Italian
- ☐ Latvian
- ☐ Lithuanian
- ☐ Maltese
- ☐ Polish
- ☐ Portuguese
- ☐ Romanian
- ☐ Slovak
- ☐ Slovenian
- ☐ Spanish
- ☐ Swedish

\* I am giving my contribution as

- ☐ Academic/research institution
- ☐ Business association
- ☐ Company/business organisation
- ☐ Consumer organisation
- ☐ EU citizen
- ☐ Environmental organisation
- ☐ Non-EU citizen
- ☐ Non-governmental organisation (NGO)
- ☒ Public authority
- ☐ Trade union
- ☐ Other

\* First name

\* Surname

\* Email (this won't be published)

\* Scope

- ☒ International
- ☐ Local
- ☐ National
- ☐ Regional

\* Organisation name

*255 character(s) maximum*

Dutch Ministry of Finance

\* Organisation size

- ☐ Micro (1 to 9 employees)

- ☐ Small (10 to 49 employees)
- ☐ Medium (50 to 249 employees)
- ☒ Large (250 or more)

## Transparency register number

*255 character(s) maximum*

Check if your organisation is on the [transparency register](#). It's a voluntary database for organisations seeking to influence EU decision-making.

## \* Country of origin

Please add your country of origin, or that of your organisation.

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| ○ Bulgaria                         | ○ Heard Island and McDonald Islands   | ○ Niue                     | ○ Togo   |
| ○ Burkina Faso                     | ○ Honduras                            | ○ Norfolk Island           | ○ Tokelau                                      |
| ○ Burundi                          | ○ Hong Kong                           | ○ Northern Mariana Islands | ○ Tonga  |
| ○ Cambodia                         | ○ Hungary                             | ○ North Korea              | ○ Trinidad and Tobago                          |
| ○ Cameroon                         | ○ Iceland                             | ○ North Macedonia          | ○ Tunisia                                      |
| ○ Canada                           | ○ India                               | ○ Norway                   | ○ Turkey                                       |

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\* Field of activity or sector (if applicable)

☐ Accounting

- ☐ Auditing
- ☐ Banking
- ☐ Credit rating agencies
- ☐ Insurance
- ☐ Pension provision
- ☐ Investment management (e.g. hedge funds, private equity funds, venture capital funds, money market funds, securities)
- ☐ Market infrastructure operation (e.g. CCPs, CSDs, Stock exchanges)
- ☐ Social entrepreneurship
- ☐ Other
- ☒ Not applicable

The Commission will publish all contributions to this public consultation. You can choose whether you would prefer to have your details published or to remain anonymous when your contribution is published. **For the purpose of transparency, the type of respondent (for example, 'business association', 'consumer association', 'EU citizen') country of origin, organisation name and size, and its transparency register number, are always published. Your e-mail address will never be published.** Opt in to select the privacy option that best suits you. Privacy options default based on the type of respondent selected

#### \* Contribution publication privacy settings

The Commission will publish the responses to this public consultation. You can choose whether you would like your details to be made public or to remain anonymous.

##### ☒ **Anonymous**

Only organisation details are published: The type of respondent that you responded to this consultation as, the name of the organisation on whose behalf you reply as well as its transparency number, its size, its country of origin and your contribution will be published as received. Your name will not be published. Please do not include any personal data in the contribution itself if you want to remain anonymous.

##### ☐ **Public**

Organisation details and respondent details are published: The type of respondent that you responded to this consultation as, the name of the organisation on whose behalf you reply as well as its transparency number, its size, its country of origin and your contribution will be published. Your name will also be published.

☒ I agree with the [personal data protection provisions](#)



# 1. General questions

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Current EU rules regarding retail investors (e.g. [UCITS \(undertakings for the collective investment in transferable securities\)](#), [PRIIPs \(packaged retail investment and insurance products\)](#), [MiFID II \(Markets in Financial Instruments Directive\)](#), [IDD \(Insurance Distribution Directive\)](#), [PEPP \(pan european pension product\)](#), or [Solvency II \(Directive on the taking-up and pursuit of the business of insurance and reinsurance\)](#)) aim at empowering investors, in particular by creating transparency of the key features of investment and insurance products but also at protecting them, for example through safeguards against mis-selling.

**Question 1.1 Does the EU retail investor protection framework sufficiently empower and protect retail investors when they invest in capital markets?**

- ☐ Yes
- ☒ No
- ☐ Don't know / no opinion / not applicable

**Please explain your answer to question 1.1 and provide examples:**

*5000 character(s) maximum*

including spaces and line breaks, i.e. stricter than the MS Word characters counting method.

The current regulations such as MiFID II, PRIIPs, UCITS and IDD have in our view contributed to improved consumer protection across the EU. However, we believe more can and should be achieved, especially when aiming for a higher retail participation rate in financial markets. In order to make retail investing and wealth accumulation even safer and more attractive, it is vital to ensure that the legal framework for the capital markets is future-proof, protects consumers better and effectively, and creates a level playing field for market participants. A high level of investor and consumer protection strengthens trust in the financial sector.

The Dutch Ministry of Finance welcomes the Commission's approach to look across sectors when reviewing these legislative pieces, to better facilitate a well-protected environment for citizens to invest their savings. With more consumers already becoming active on capital markets, often through new, digital distribution channels, it is even more urgent that retail investors are adequately protected.

In our joint non-paper with the Dutch Authority for the Financial Markets (AFM) , we highlight five key priorities for improving the access and protection of retail investors:

1. Applying behavioural insights to improve the choice environment and make information disclosure more effective by ensuring the key aspects of products and services are provided in the right choice architecture. Streamlining disclosure requirements could improve comparability of financial products and services, allowing consumers to make better choices.
2. Addressing conflicts of interest to enhance investor outcomes by introducing a European ban on inducements for investment products and services. It will improve price transparency and reduce the cost of investing, enabling more consumers to access capital markets.
3. Providing suitable products, aimed at the appropriate and well-defined target market will prevent mis-selling and promote suitable and sustainable access to capital markets. A strengthened application of the current POG framework and strengthened cross-border conduct supervision are key to sufficiently protect retail investors and avoid supervisory arbitrage.
4. Financial literacy could be improved to increase financial resilience and the well-being of households. The European Commission could stimulate evaluation of national programs for financial education and the sharing of good practices to scale up effective programs.
5. Initiatives that improve transparency on sustainability will allow retail investors to better assess how green investments are, and thereby prevent greenwashing.

\*Please find the non-paper attached to this survey.

While aimed at protecting retail investors, some rules may require specific procedures to be followed (e.g. the need to use investment advice and complete a suitability assessment) or may limit investment by retail investors (e.g. by warning against purchase of certain investment products or even completely prohibiting access).

### **Question 1.2 Are the existing limitations justified, or might they unduly hinder retail investor participation in capital markets?**

- ☒ Yes, they are justified
- ☐ No, they unduly hinder retail investor participation
- ☐ Don't know / no opinion / not applicable

### **Please explain your answer to question 1.2:**

*5000 character(s) maximum*

including spaces and line breaks, i.e. stricter than the MS Word characters counting method.

In our view, to allow for more retail investor participation in capital markets, a safe environment should be created that allows consumers to make well-informed, sensible decisions. These safeguards, such as suitability assessments, product oversight and governance norms, warnings and prohibitions, are important for effective consumer and investor protection. They are already applied proportionally to the complexity of the product and therefore do not unduly hinder retail participation.

**Question 1.3 Are there any retail investment products that retail investors are prevented from buying in the EU due to constraints linked to existing existing EU regulation?**

- ☐ Yes
- ☐ No
- ☒ Don't know / no opinion / not applicable

**Please explain your answer to question 1.3:**

*5000 character(s) maximum*

including spaces and line breaks, i.e. stricter than the MS Word characters counting method.

The mere fact that a retail investor is prevented from buying a certain investment product does in our view not constitute a problem as such. Products marketed and sold to retail investors should be appropriately targeted at them and suit their personal situation and financial goals. This may result in some products not deemed suited for retail investors.

**Question 1.4 What do you consider to be factors which might discourage or prevent retail investors from investing?**

	1 (strongly disagree)	2 (rather disagree)	3 (neutral)	4 (rather agree)	5 (strongly agree)	Don't know - No opinion - Not applicable
Lack of understanding by retail investors of products?	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input checked="" type="radio"/>	<input type="radio"/>	<input type="radio"/>
Lack of understanding of products by advisers?	<input type="radio"/>	<input checked="" type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>
Lack of trust in products?	<input type="radio"/>	<input type="radio"/>	<input checked="" type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>
High entry or management costs?	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input checked="" type="radio"/>	<input type="radio"/>	<input type="radio"/>
Lack of access to reliable, independent advice?	<input type="radio"/>	<input checked="" type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>
Lack of access to redress?	<input checked="" type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>
Concerns about the risks of investing?	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input checked="" type="radio"/>
Uncertainties about expected returns?	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input checked="" type="radio"/>
Lack of available information about products in other EU Member States?	<input type="radio"/>	<input checked="" type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>
Other	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input checked="" type="radio"/>	<input type="radio"/>

**Please specify what other factor(s) might discourage or prevent retail investors from investing:**

*5000 character(s) maximum*

including spaces and line breaks, i.e. stricter than the MS Word characters counting method.

- Lack of knowledge about different investment options
- Choice overload

\*Explanation 'high entry or management costs': Especially relevant for individual (active) asset management. In our view the costs are lower for passively managed funds such as ETFs or execution only investment services. Nevertheless the costs could be perceived to be high by retail investors.

**Question 1.5 Do you consider that products available to retail investors in the EU are:**

	1 (strongly disagree)	2 (rather disagree)	3 (neutral)	4 (rather agree)	5 (strongly agree)	Don't know - No opinion - Not applicable
Sufficiently accessible	<input type="radio"/>	<input type="radio"/>	<input checked="" type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>
Understandable for retail investors	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input checked="" type="radio"/>	<input type="radio"/>	<input type="radio"/>
Easy for retail investors to compare with other products	<input type="radio"/>	<input type="radio"/>	<input checked="" type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>
Offered at competitively priced conditions	<input type="radio"/>	<input type="radio"/>	<input checked="" type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>
Offered alongside a sufficient range of competitive products	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input checked="" type="radio"/>	<input type="radio"/>	<input type="radio"/>
Adapted to modern (e.g. digital) channels	<input type="radio"/>	<input type="radio"/>	<input checked="" type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>
Adapted to Environmental, Social and Governance (ESG) criteria	<input type="radio"/>	<input type="radio"/>	<input checked="" type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>

**Question 1.6 Among the areas of retail investment policy covered by this consultation, in which area (or areas) would the main scope for improvement lie in order to increase the protection of investors?**

Please select as many answers as you like

- ☐ financial literacy
- ☐ digital innovation
- ☒ disclosure requirements
- ☒ suitability and appropriateness assessment
- ☐ reviewing the framework for investor categorisation
- ☒ inducements and quality of advice
- ☐ addressing the complexity of products
- ☐ redress
- ☐ product intervention powers
- ☐ sustainable investing
- ☒ other

**Please specify to what other area(s) you refer in your answer to question 1.6:**

*5000 character(s) maximum*

including spaces and line breaks, i.e. stricter than the MS Word characters counting method.

- Behavioural aspects of retail investors – the choice environment in which options and information are presented.
- Supervisory convergence and strengthening the Single Rulebook – given the increased cross-border activities.

**Please explain your answer to question 1.6:**

*5000 character(s) maximum*

including spaces and line breaks, i.e. stricter than the MS Word characters counting method.

As already stated in our answer to question 1.1., we have highlighted five priorities to be considered within the Retail Investment Strategy. Besides the provided choices (such as banning inducements and improving disclosure and suitability), we believe the behavioural aspects of consumers' choice environment and improvements to cross-border supervision should be dealt with in the Strategy.

Incorporating behavioural aspects is important because the choice architecture has an impact on investments choices. For instance, research suggests when past performances are made salient, people are more likely to suffer from the disposition effect (selling assets that have increased in value and keeping assets that have dropped in value). The order in which choices are presented is likely to have an impact on choices people make. Research suggests that legally required information is not as salient and attractive as other information in the choice environment, and might therefore play a minor role in the decision making processes, while it may be deemed important by the legislator that the retail investor takes note of this information.

These findings have the following implications that in our view should be taken into account in the Retail Investment Strategy and subsequent reviews:

- We should ensure that the choice environment is not designed against the interest of the retail investors. Given the increased usage of digital manners for interacting with consumers, this becomes even more important as some firms tend to steer customers to financial services or products that are not suitable or more expensive.
- We should, therefore, explore and research how the choice environment can make it easier for consumers to make sensible decisions (nudge: less clicks, less reading, less warnings), and to make decisions that are likely less sensible from the consumers' point of view more difficult (sludge: ask questions to investors, show warnings that have to be clicked away after having confirmed that one understood).
- Although the standardized information provision in the current shape (separate information sheets on pdf) is not likely to affect the majority of choices, it is possible to improve uniformity of all the information provision, and adjust it to the latest behavioural insights on effective information provision. For instance, it can be made more attractive and clear which decisions investors can take with the information. Making it more visual, structured according to the questions investors have will be beneficial. The impact of information can be increased by improving the timing of the document; providing it at the optimal moment.
- Research ways to integrate standardized information and warnings into the choice architecture, ensure e.g. that retail investors are able to judge the amount of costs by providing them information on the average amount of costs for similar products. This could serve as an anchor to be able to compare the costs. Research shows that people are not able to choose based on an absolute number, however they are able to choose based on a relative number. An anchor could perhaps provide a link to the standardized summary sheet (comparable information).

## 2. Financial literacy

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For many individuals, financial products and services remain complex. To empower individuals to adequately manage their finances as well as invest, it is of crucial importance that they are able to understand the risks and rewards surrounding retail investing, as well as the different options available. However, as shown by the [OECD/INFE 2020 international survey of adult financial literacy](#), many adults have major gaps in understanding basic financial concepts.

While the main responsibility for financial education lies with the Member States, there is scope for Commission initiatives to support and complement their actions. In line with the [2020 capital markets union action plan](#), Directorate General for Financial Stability, Financial Services and Capital Markets Union (DG FISMA) published a [feasibility assessment report](#) and will, together with the OECD, develop a financial competence framework in the EU. In addition,



the need for a legislative proposal to require Member States to promote learning measures that support the financial education of individuals, in particular in relation to investing will be assessed.

**Question 2.1 Please indicate whether you agree with the following statement: Increased financial literacy will help retail investors to**

	1 (strongly disagree)	2 (rather disagree)	3 (neutral)	4 (rather agree)	5 (strongly agree)	Don't know - No opinion - Not applicable
Improve their understanding of the nature and main features of financial products	<input type="radio"/>	<input type="radio"/>	<input checked="" type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>
Create realistic expectations about the risk and performance of financial products	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input checked="" type="radio"/>	<input type="radio"/>	<input type="radio"/>
Increase their participation in financial markets	<input type="radio"/>	<input type="radio"/>	<input checked="" type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>
Find objective investment information	<input type="radio"/>	<input type="radio"/>	<input checked="" type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>
Better understand disclosure documents	<input type="radio"/>	<input checked="" type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>
Better understand professional advice	<input checked="" type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>
Make investment decisions that are in line with their investment needs and objectives	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input checked="" type="radio"/>	<input type="radio"/>	<input type="radio"/>
Follow a long-term investment strategy	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input checked="" type="radio"/>	<input type="radio"/>	<input type="radio"/>

## Question 2.2 Which further measures aimed at increasing financial literacy (e.g. in order to promote the OECD/Commission financial literacy competence framework) might be pursued at EU level?

**Please explain your answer, taking into account that the main responsibility for financial education lies with Member States:**

*5000 character(s) maximum*

including spaces and line breaks, i.e. stricter than the MS Word characters counting method.

Investment education should be part of a broader effort to promote financial health and financial wellbeing and should be integrated with other topics, such as budgeting, saving, and borrowing. Investment education is not a separate topic. It should be made part of financial management and planning.

The Commission can stimulate the evaluation of national programs for financial education, promote sharing of good practices and assist in scaling up effective programs. This improves retail participation in long-term savings and investment, and increases financial resilience and well-being of households.

Investment education should not be expected to be a silver bullet. It needs to go hand-in-hand with regulation /protection and a choice architecture that promotes well-informed decisions.

Investment education should not be limited to the transfer of knowledge about investment products. The available research shows that financial education can be effective if it takes behavioural insights into account. Effective interventions could be:

- Make complex choices easier: structure tasks and split them up into smaller steps (to expand self-efficacy).
- Focus on three levels: know, can and do. Although knowledge (know) is not enough to change behaviour, it is a prerequisite for the other two levels. Can is about skills and competencies. Do concerns the conditions needed to put knowledge and skills into practice. This involves matters such as motivation, attitude and self-efficacy (belief in one's own ability to achieve goals).
- Add techniques that bind, for example, setting up direct debits or having people enter into agreements with themselves. This gives people tools they can use to maintain good behaviour.
- Remain in line with the current behaviour, preferences and customer journey of the target group and ensure that people see the information at the right time. In the literature, such times are referred to as teachable moments. These are moments when what has been learned can immediately be put into practice, so that people are more open to the information. For instance, just before making a certain financial decision or before a significant life event (marriage, birth of a child, moving in together or retirement)
- Use social proof. People are constantly influenced by others and adopt their behaviour. What others do is used as a source of information for what constitutes good behaviour. If it fits in with the goals, it can therefore also be effective to describe what most people are doing.
- Start at a young age by teaching children and young adults basic financial competencies that create fertile grounds for investor education in the long run.

## 3. Digital innovation

Digitalisation and technological innovation and the increasing popularity of investment apps and web-based platforms are having profound impacts on the way people invest, creating new opportunities (e.g. in terms of easier access to

investment products and capital markets, easier comparability, lower costs, etc.). However technological change can also carry risks for consumers (e.g. easier access to potentially riskier products). These changes may pose challenges to existing retail investors, while investor protection rules may no longer be fit for purpose.

Open finance, (i.e. giving greater access to customer data held by financial institutions to third party service providers to enable them to offer more personalised services) can, in the field of investment services, lead to better financial products, better targeted advice and improved access for consumers and greater efficiency in business-to-business transactions. In the [September 2020 digital finance strategy](#), the Commission announced its intention to propose legislation on a broader open finance framework.

**Question 3.1 What might be the benefits or potential risks of an open finance approach (i.e. similar to that developed in the field of payment services which allowed greater access by third party providers to customer payment account information) in the field of retail investments (e.g. enabling more competition, tailored advice, data privacy, etc.)?**

**Please explain your answer**

*5000 character(s) maximum*

including spaces and line breaks, i.e. stricter than the MS Word characters counting method.

If the benefits of open finance solutions are focussed truly on the clients of financial institutions, open finance could lead to financial products and services that are better tailored to the needs of the client, and potentially cheaper as it might lead to efficiency gains. This could enhance access to European capital markets for retail investors, because of more innovative and convenient services being offered to consumers. New entrants and incumbent financial service firms (through partnerships with innovative start-ups) could be provided with new business opportunities in the area of data-dependent services.

However, the active use of sensitive personal data also leads to many risks of (unintended) data leakages, misuse of personal data and other privacy related issues. Even with GDPR in place, practical experience shows that entities often mishandle sensitive personal information. Furthermore, there are risks of differentiation of clients and client groups, which could have negative consequences for certain (groups) of clients. Moreover, especially when open finance solutions are combined with AI-applications, questions arise about the quality of the algorithms used, and potential algorithmic biases. Another risk is that the benefits of open finance only land at the FI itself (in the form of efficiency gains), but the client does not receive any of the benefits and could even be off worse than before.

We strongly feel that we should take lessons from the open finance framework of PSD2 first, before the discussion on a horizontal open finance framework is started. We therefore strongly advise to use the upcoming PSD2-review in 2022/2023 to identify any issues. PSD2 is a good use case, and could give some indicators on potential benefits and pitfalls of a more horizontal framework. Furthermore, more care (as compared to the discussions on PSD2) should be given to the privacy aspects of open finance. PSD2 had led to many questions and uncertainty among Dutch consumers on what happens with their financial data and what the added benefit is for them. Requirements on the access, use and storage of data should be specified. Lastly, and most importantly, open finance should really be to the benefit of consumers and users. If the benefits are only reaped by service providers, the risks of sharing personal information of consumers is not proportionate. Therefore, consumers should in no instance be forced to share their data, or discriminated if they chose not so, if they want to make use of financial services. Consumer protection rules should apply (e.g. information requirements and alternative dispute resolution).

## Question 3.2 What new tools or services might be enabled through open finance or other technological innovation (e.g. digital identity) in the financial sector ?

### Please explain your answer

*5000 character(s) maximum*

including spaces and line breaks, i.e. stricter than the MS Word characters counting method.

Search for different ways to increase the use and impact of standardised information/ data (KID). Explore the costs and benefits of open data, especially taking into account the benefits and risks from the perspective of the consumer. Open finance may allow that the data/information will not only be made available to consumers through the websites of the providers, but the data is also open to third parties, like fintechs who can use them to develop services that support retail investors to search products, filter them and compare.

By making the contents of publicly available documentation machine-readable, the data within them can be easily extracted and used for various purposes, such as aggregation, comparison, or analysis. In the field of retail investment, examples would include portfolio management apps, robo advisors, comparison websites, pension dashboards, etc. DG FISMA has already started work in this area in the context of the European Single Access Point. Machine-readability is also required by newly proposed legislation, such as the [Markets in Crypto-Assets Regulation \(MiCA\)](#), whilst legacy legal framework will need adaptation.

In the field of retail investment, applicable EU legislation does not currently require documents to be machine-readable. However, some private initiatives are already demonstrating that there is interest from market actors in more standardisation and machine-readability of the data provided within existing retail investment information documents, such as the PRIIPs KID or MiFID disclosures. Requiring machine readability of disclosure documents from scratch could help to open business opportunities for third parties, for example by catering to the needs of advisers and retail investors who prefer direct access to execution only venues.

## Question 3.3 Should the information available in various pre-contractual disclosure documents be machine-readable?

- ☒ Yes
- ☐ No
- ☐ Don't know / no opinion / not applicable

### Please explain your answer to question 3.3:

*5000 character(s) maximum*

including spaces and line breaks, i.e. stricter than the MS Word characters counting method.

This will allow other companies such as fintechs to use the data and develop innovative services for retail investors to search for adequate investment choices.

Rules on marketing and advertising of investment products remain predominantly a national competence, bound up in civil and national consumer protection law, although the [2019 legislative package on cross-border distribution of investment funds](#) does remove some cross-border national barriers.

**Question 3.4 Given the increasing use of digital media, would you consider that having different rules on marketing and advertising of investment products constitutes an obstacle for retail investors to access investment products in other EU markets?**

- ☐ Yes
- ☒ No
- ☐ Don't know / no opinion / not applicable

**Please explain your answer to question 3.4:**

*5000 character(s) maximum*

including spaces and line breaks, i.e. stricter than the MS Word characters counting method.

While we do not observe that different rules on marketing and advertising have led to obstacles for retail investors to access investment products in other EU markets, we do believe that different rules can be confusing and even misleading for retail clients. Especially in an environment where the traditional sales /advice process takes places online only. We would recommend that marketing and advertising rules and regulation across the Union converge as much as possible.

Under MiFID product governance rules, which also regulate marketing communication, firms are prevented from presenting products in ways which might mislead clients (e.g. the information should not disguise, diminish or obscure important items, the information should give a fair and prominent indication of any relevant risks when referencing any potential benefits of a financial instrument, all costs and charges should be disclosed, the nature of the product must be explained, etc.).

**Question 3.5 Might there be a need for stricter enforcement of rules on online advertising to protect against possible mis-selling of retail investment products?**

- ☒ Yes
- ☐ No
- ☐ Don't know / no opinion / not applicable

**Please explain your answer to question 3.5:**

*5000 character(s) maximum*

including spaces and line breaks, i.e. stricter than the MS Word characters counting method.

The current rules for advertisement also apply for online marketing. However, given increased digitalisation and more online interaction with consumers by firms, enforcement of these rules could be strengthened to prevent unclear and misleading information. For example, affiliate marketing used by influencers or personalised targeting.

**Question 3.6 Would you see a need for further EU coordination /harmonisation of national rules on online advertising and marketing of investment products?**

- ☒ Yes
- ☐ No
- ☐ Don't know / no opinion / not applicable

**Please explain your answer to question 3.6, including which rules would require particular attention:**

*5000 character(s) maximum*

including spaces and line breaks, i.e. stricter than the MS Word characters counting method.

If this will improve the protection of investors, we would see merit in further coordination or harmonisation of rules on online advertising and marketing given the increased digitalisation.

In February 2021, in the context of speculative trading of GameStop shares, [ESMA issued a statement](#) urging retail investors to be careful when taking investment decisions based exclusively on information from social media and other unregulated online platforms, if they cannot verify the reliability and quality of that information.

**Question 3.7 How important is the role played by social media platforms in influencing retail investment behaviour (e.g. in facilitating communication between retail investors, but also increasing herding behaviour among investors or for large financial players to collect data on interest in certain stocks or financial products)?**

- ☐ Not at all important
- ☐ Rather not important
- ☐ Neutral
- ☐ Somewhat important
- ☒ Very important
- ☐ Don't know / no opinion / not applicable

### Please explain your answer to question 3.7:

*5000 character(s) maximum*

including spaces and line breaks, i.e. stricter than the MS Word characters counting method.

As we have seen in January of this year with –among other stocks– GameStop, social media platforms can have an enormous influence on the behaviour of investors. Similarly, influencers often have a broad range online, with the ability to quickly and easily distribute information about investments (e.g. opportunities or strategies), with a large online audience. As the AFM recently stressed, the rules on for example market abuse also apply to these social media posts\*.

\*<https://www.afm.nl/nl-nl/professionals/onderwerpen/afm-market-watch>

**Question 3.8 Social media platforms may be used as a vehicle by some users to help disseminate investment related information and may also pose risks for retail investment, e.g. if retail investors rely on unverified information or on information not appropriate to their individual situation. How high do you consider this risk?**

- ☐ Not at all significant
- ☐ Not so significant
- ☐ Neutral
- ☐ Somewhat significant
- ☒ Very significant
- ☐ Don't know / no opinion / not applicable

[MiFID II](#) regulates the provision of investment advice and marketing communication suggesting, explicitly or implicitly, an investment strategy. Information about investment opportunities are increasingly circulating via social media, which can prompt people to decide to invest on the basis of information that is unverified, may be incorrect or unsuited to the individual customer situation. This information may be circulated by individuals without proper qualification or authorisation to do so. The [Market Abuse Regulation \(MAR\)](#) also contains provisions which forbid the dissemination of false information and forbid collaboration between persons (e.g. brokers recommending a trading strategy) to commit market abuse.

**Question 3.9 Do the rules need to be reinforced at EU level with respect to dissemination of investment related information via social media platforms?**

- ☐ Yes
- ☐ No
- ☒ Don't know / no opinion / not applicable

### Please explain your answer to question 3.9:

*5000 character(s) maximum*

including spaces and line breaks, i.e. stricter than the MS Word characters counting method.



In our view, current language in for example article 12(1)(c) or article 20 of the Market Abuse Regulation, seems sufficiently technology neutral in order to address situations where a person disseminates false information through social media or does not comply with the rules governing dissemination of investment recommendations when using social media.

On-line investment brokers, platforms or apps, which offer execution only services to retail investors, are subject to the relevant investor protection rules for such services under the MiFID framework. While such on-line investment platforms may offer advantages for retail investors, including a low level of fees and the ease of access to a large variety of investment products, such platforms may also present risks, e.g. in case of inadequacy of appropriateness checks, lack of understanding of individual investors lack or inadequate disclosure of costs.

**Question 3.10 Do you consider that retail investors are adequately protected when purchasing retail investments on-line, or do the current EU rules need to be updated?**

- ☐ Yes, consumers are adequately protected
- ☒ No, the rules need to be updated
- ☐ Don't know / no opinion / not applicable

**Please explain your answer to question 3.10:**

*5000 character(s) maximum*

including spaces and line breaks, i.e. stricter than the MS Word characters counting method.

Given the increased usage of digital means to provide financial services and sell products to (retail) investors, it is in our view important that we improve the way and substance of the information provided to investors. Behavioural aspects should be taken into account when enhancing these disclosure rules and improving the choice environment. We should also take a closer look at how these new forms of online /digital services and supervised, especially when the financial institution and the customer are located in different Member States. With further regulatory and supervisory convergence, the conduct of cross-border activities can be improved. See also our answers to questions 1.1 and 1.6.

**Question 3.11 When products are offered online (e.g. on comparison websites, apps, online brokers, etc.) how important is it that lower risk or not overly complex products appear first on listings?**

- ☐ Not at all important
- ☐ Rather not important
- ☐ Neutral
- ☒ Somewhat important
- ☐ Very important
- ☐ Don't know / no opinion / not applicable

**Please explain your answer to question 3.11:**

*5000 character(s) maximum*

including spaces and line breaks, i.e. stricter than the MS Word characters counting method.

Products should be suited for the individual situation and the financial goals of the consumer and deemed suitable for the designated target market. It could for example be that a higher risk product is suitable for a younger person (with likely less experience) who wants to put aside money for his/her retirement and thus as a longer time horizon. This implies that it is very important that the choice environment is properly adapted. This can be done in various ways, depending on the target market and individual characteristics of the investor. Products that are more suited according to his/her financial goals and personal situation could be showed more prominent on the screen or in the app. See also our answers to question 1.1 and 1.6.

## 4. Disclosure requirements

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Rules on pre-contractual and on-going disclosure requirements are set out for different products in [MiFID II](#), the [Insurance Distribution Directive](#), [AIFMD \(Alternative Investment Fund Managers Directive\)](#), [UCITS](#), [PEPP](#) and the [Solvency II](#) framework, as well as in horizontal EU legislation (e.g. [PRIIPs](#) or the [Distance Marketing Directive](#)) and national legislation. The rules can differ from one instrument to another, which may render comparison of different products more difficult.

**Question 4.1 Do you consider that pre-contractual disclosure documentation for retail investments, in cases where no Key Information Document is provided, enables adequate understanding of:**

	1 (strongly disagree)	2 (rather disagree)	3 (neutral)	4 (rather agree)	5 (strongly agree)	Don't know - No opinion - Not applicable
The nature and functioning of the product	<input type="radio"/>	<input checked="" type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>
The costs associated with the product	<input type="radio"/>	<input checked="" type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>
The expected returns under different market conditions	<input type="radio"/>	<input checked="" type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>
The risks associated with the product	<input type="radio"/>	<input checked="" type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>

## Please explain your answer to question 4.1:

*5000 character(s) maximum*

including spaces and line breaks, i.e. stricter than the MS Word characters counting method.

Generally, people have limited time and attention for information provision, and hence the legally required pre-contractual disclosure plays a limited role to inform retail investment decisions. In financial markets investors are likely to experience information overload and focus their attention on the most attractive, salient and intuitive information available. The KID's appear to not stand out, where no format is required, or formats are even more laissez-faire they might unfortunately hardly be used. The impact of legally required information on investors' choices seems generally limited.

However, even if a small percentage of investors uses it, and providers are subject to the spotlight effect (they believe they are noticed and are more carefully deciding on the characteristics of the product) it is important to continue its development. Standardised brief summary information is an improvement compared to longer unstructured pre-contractual information. Research suggests that simplification of information, vividness and social information matter.

Various steps have already been taken by the Commission and European supervisory authorities to make documents more appealing for retail investors: standardised summary information enables people to compare, various experiments have been conducted to improve the content. Still, the documents are static, some are still long, contain lot of text (sometimes jargon), little visual information, titles of documents are not intuitive and attractive (what can investors do with it), the content does not necessarily follow the interests/intuitions of the investors, the expectation is that people themselves come up with the idea to collect multiple documents to be able to compare while this might often not happen.

Although information provision will never be the silver bullet, there is still room for improvement to increase the use of it (George Loewenstein, Cass R. Sunstein & Russell Golman, Disclosure: Psychology Changes Everything, 6 Ann. Rev. Econ. 391 (2014). Offering digital information in which information can be layered (click for more information) could be a step forward, and more tailored to people's needs. By allowing people to download an extract on pdf, still this could be provided as durable information. We think there should be more strict formats, where there is less room for providers to choose ways in which to set up the texts.

### Question 4.2 Please assess the different elements for each of the following pieces of legislation:

#### Question 4.2.1 PRIIPs Key Information Document

**Question 4.2.1 a) PRIIPS: Is the pre-contractual information provided to retail investors for each of the elements below sufficiently understandable and reliable so as to help them take retail investment decisions? Please assess the level of understandability:**

	1 (very low)	2 (rather low)	3 (neutral)	4 (rather high)	5 (very high)	Don't know - No opinion - Not applicable
PRIIPs Key Information Document (as a whole)	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>
Information about the type, objectives and functioning of the product	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>
Information on the risk-profile of the product, and the summary risk indicator	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>
Information about product performance	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>
Information on cost and charges	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>
Information on sustainability-aspects of the product	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>

**Question 4.2.1 b) PRIIPS: Is the pre-contractual information provided to retail investors for each of the elements below **sufficiently reliable** so as to help them take retail investment decisions? Please assess the **level of reliability**:**

	1 (very low)	2 (rather low)	3 (neutral)	4 (rather high)	5 (very high)	Don't know - No opinion - Not applicable
PRIIPs Key Information Document (as a whole)	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>
Information about the type, objectives and functioning of the product	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>
Information on the risk-profile of the product, and the summary risk indicator	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>
Information about product performance	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>
Information on cost and charges	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>
Information on sustainability-aspects of the product	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>

**Question 4.2.1 c) PRIIPS: Is the amount of information provided for each of the elements below insufficient, adequate, or excessive?**

	1 (insufficient)	2 (adequate)	3 (excessive)	Don't know - No opinion - Not applicable
PRIIPs Key Information Document (as a whole)	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>
Information about the type, objectives and functioning of the product	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>
Information on the risk-profile of the product, and the summary risk indicator	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>
Information about product performance	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>
Information on cost and charges	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>
Information on sustainability-aspects of the product	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>

**Please explain your answer to question 4.2.1:**

*5000 character(s) maximum*

including spaces and line breaks, i.e. stricter than the MS Word characters counting method.

PRIIPs Key Information Document (as a whole):

We believe the answers to these questions should be given by research among retail investors, not by policy advisors. The journey of a retail investor could be researched: when does a KID appear in the journey? To what extent is it used? Is it perceived to be understandable? And to what extent does it influence actual product choices? Policy advisors will be tempted to say that more information is necessary, as they know the markets and the importance of certain details.

Information about the type, objectives and functioning of the product:

Parties differ to which extent they make this information readable and simple to understand.

Information on the risk-profile of the product, and the summary risk indicator:

We wonder to what extent investors are able to understand which risk profile would fit them.

Information about product performance:

We like the presentation of the different scenarios. We wonder if the time horizon is always appropriate or giving a too short time frame. As past performance seems less predictive for future performance as suggested in the behavioural finance literature, we wonder if this information should be less salient and in order later in the document. And put the costs and charges first. However, again consumer testing should show if this doesn't put people off reading.

Information on cost and charges:

We could imagine this information to be more salient and at the beginning of the document as the literature suggests this is an important predictor for future rewards.

#### Question 4.2.2 Insurance Product Information Document

**Question 4.2.2 a) IDD: Is the pre-contractual information provided to retail investors for each of the elements below sufficiently understandable and reliable so as to help them take retail investment decisions? Please assess the level of understandability:**

	1 (very low)	2 (rather low)	3 (neutral)	4 (rather high)	5 (very high)	Don't know - No opinion - Not applicable
Insurance Product Information Document (as a whole)	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>



Information about the insurance distributor and its services	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>
Information on the insurance product (conditions, coverage etc.)	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>
Information on cost and charges	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>

**Question 4.2.2 b) IDD: Is the pre-contractual information provided to retail investors for each of the elements below sufficiently reliable so as to help them take retail investment decisions? Please assess the level of reliability:**

	1 (very low)	2 (rather low)	3 (neutral)	4 (rather high)	5 (very high)	Don't know - No opinion - Not applicable
Insurance Product Information Document (as a whole)	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>
Information about the insurance distributor and its services	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>

Information on the insurance product (conditions, coverage etc.)	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>
Information on cost and charges	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>

**Question 4.2.2 c) IDD: Is the amount of information provided for each of the elements below insufficient, adequate, or excessive?**

	1 (insufficient)	2 (adequate)	3 (excessive)	Don't know - No opinion - Not applicable
Insurance Product Information Document (as a whole)	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>
Information about the insurance distributor and its services	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>
Information on the insurance product (conditions, coverage etc.)	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>
Information on cost and charges	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>

**Please explain your answer to question 4.2.2:**

*5000 character(s) maximum*

including spaces and line breaks, i.e. stricter than the MS Word characters counting method.

Insurance Product Information Document (as a whole):

We believe the structure of the IPID is more consumer friendly than the PRIIPs and PEPP. The IPID for instance shows what it does cover with green checks and what it doesn't cover with red crosses.

Information about the insurance distributor and its services:

The structuring through blocks and the questions as headings are a good practice of information provision. The extensive contact details of the provider and the supervisory authority are not important for the investor and can be put later in the order of items.

Information on the insurance product (conditions, coverage etc.):

Good.

Information on cost charges:

This information seems not to be provided in the document.

#### Question 4.2.3 PEPP Key Information Document

**Question 4.2.3 a) PEPP: Is the pre-contractual information provided to retail investors for each of the elements below sufficiently understandable and reliable so as to help them take retail investment decisions? Please assess the level of understandability:**

	1 (very low)	2 (rather low)	3 (neutral)	4 (rather high)	5 (very high)	Don't know - No opinion - Not applicable
PEPP Key Information Document (as a whole)	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>
Information about the PEPP provider and its services	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>
Information about the safeguarding of investments	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>

Information on cost and charges	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>
Information on the pay-out phase	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>

**Question 4.2.3 b) PEPP: Is the pre-contractual information provided to retail investors for each of the elements below **sufficiently reliable** so as to help them take retail investment decisions? Please assess the **level of reliability**:**

	1 (very low)	2 (rather low)	3 (neutral)	4 (rather high)	5 (very high)	Don't know - No opinion - Not applicable
PEPP Key Information Document (as a whole)	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>
Information about the PEPP provider and its services	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>
Information about the safeguarding of investments	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>
Information on cost and charges	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>
Information on the pay-out phase	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>

**Question 4.2.3 c) PEPP: Is the amount of information provided for each of the elements below insufficient, adequate, or excessive?**

	1 (insufficient)	2 (adequate)	3 (excessive)	Don't know No opinion Not applicable
PEPP Key Information Document (as a whole)	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>
Information about the PEPP provider and its services	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>
Information about the safeguarding of investments	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>
Information on cost and charges	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>
Information on the pay-out phase	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>

**Please explain your answer to question 4.2.3:**

*5000 character(s) maximum*

including spaces and line breaks, i.e. stricter than the MS Word characters counting method.

**Question 4.3 Do you consider that the language used in pre-contractual documentation made available to retail investors is at an acceptable level of understandability, in particular in terms of avoiding the use of jargon and sector specific terminology?**

- ☐ Yes
- ☒ No

- ☐ Don't know / no opinion / not applicable

**Please explain your answer to question 4.3:**

*5000 character(s) maximum*

including spaces and line breaks, i.e. stricter than the MS Word characters counting method.

In terms of format, structure and headings the IPID is the most intuitive. PEPP least with most text and jargon. When we look at the PEPP and KID we see that providers differ a lot in how they fill out these documents. If the main aim is to support investors, then the texts should be first and foremost understandable for people and second also legally correct.

**Question 4.4 At what stage of the retail investor decision making process should the Key Information Document (PRIIPs KID, PEPP KID, Insurance Product Information Document) be provided to the retail investor? Please explain your answer:**

*5000 character(s) maximum*

including spaces and line breaks, i.e. stricter than the MS Word characters counting method.

The KID should be provided in timely matter prior during the orientation phase, not at the moment an investor decides to buy a certain investment product or service.

**Question 4.5 Does pre-contractual documentation for retail investments enable a clear comparison between different investment products?**

- ☐ Yes
- ☒ No
- ☐ Don't know / no opinion / not applicable

**Please explain your answer to question 4.5:**

*5000 character(s) maximum*

including spaces and line breaks, i.e. stricter than the MS Word characters counting method.

Research suggest that people find it hard to judge absolute numbers, and they have limited time and motivation to search for other documents. There are various ideas in the literature to make it simpler for people to compare, which should be tested before being implemented. One could simply state that you recommend them to collect an x number of documents to be able to compare (guide the steps people need to take). One could give anchors in the documents (provide e.g. the average or median costs). In the document could be a link which enables people to easily find other documents (they would need to be at a central place though rather than at the website of a provider).

Furthermore, the information strategy should not only focus on these documents but also on the immediate choice environment. Could for instance the costs be mentioned there together with a median/ average amount of costs and a link to a KID.

Finally, fintechs could simplify searching, filtering and comparing the great number of products on offer to investors. Can these be facilitated by having access to the standardized comparable data.

**Question 4.6 Should pre-contractual documentation for retail investments enable as far as possible a clear comparison between different investment products, including those offered by different financial entities (for example, with one product originating from the insurance sector and another from the investment funds sectors)?**

- ☒ Yes
- ☐ No
- ☐ Don't know / no opinion / not applicable

**Please explain your answer to question 4.6:**

*5000 character(s) maximum*

including spaces and line breaks, i.e. stricter than the MS Word characters counting method.

If investors search for a sensible investment, they would want to compare all products on offer irrespective of the providers. From the perspective of the retail investor, it does not matter where a product that may suit his /her financial objectives and situation originates from. We should however prevent an information overload when enabling consumers to better compare different products.

**Question 4.7 a) Are you aware of any overlaps, inconsistencies, redundancies, or gaps in the EU disclosure rules (e.g. PRIIPS, MiFID, IDD, PEPP, etc.) with respect to the way product cost information is calculated and presented?**

- ☐ Yes
- ☐ No
- ☒ Don't know / no opinion / not applicable

**Please explain your answer to question 4.7 a), and indicate which information documents are concerned:**

*5000 character(s) maximum*

including spaces and line breaks, i.e. stricter than the MS Word characters counting method.

**Question 4.7 b) Are you aware of any overlaps, inconsistencies, redundancies, or gaps in the the EU disclosure rules (e.g. PRIIPS, MiFID, IDD, PEPP, etc.) with respect to the way risk information is calculated and presented?**

- ☐ Yes
- ☐ No
- ☒ Don't know / no opinion / not applicable

**Please explain your answer to question 4.7 b), and indicate which information documents are concerned:**

*5000 character(s) maximum*

including spaces and line breaks, i.e. stricter than the MS Word characters counting method.

**Question 4.7 c) Are you aware of any overlaps, inconsistencies, redundancies, or gaps in the the EU disclosure rules (e.g. PRIIPS, MiFID, IDD, PEPP, etc.) with respect to the way performance information is calculated and presented?**

- ☐ Yes
- ☐ No
- ☒ Don't know / no opinion / not applicable

**Please explain your answer to question 4.7 c), and indicate which information documents are concerned:**

*5000 character(s) maximum*

including spaces and line breaks, i.e. stricter than the MS Word characters counting method.



**Question 4.7 d) Are you aware of any overlaps, inconsistencies, redundancies, or gaps in the the EU disclosure rules (e.g. PRIIPS, MiFID, IDD, PEPP, etc.) with respect to other elements?**

- ☐ Yes
- ☐ No
- ☒ Don't know / no opinion / not applicable

**Question 4.8 How important are the following types of product information when considering retail investment products?**

	1 (not relevant)	2 (relevant, but not crucial)	3 (essential)	Don't know / No opinion / Not applicable
Product objectives /main product features	<input type="radio"/>	<input type="radio"/>	<input checked="" type="radio"/>	<input type="radio"/>
Costs	<input type="radio"/>	<input type="radio"/>	<input checked="" type="radio"/>	<input type="radio"/>
Past performance	<input type="radio"/>	<input checked="" type="radio"/>	<input type="radio"/>	<input type="radio"/>
Guaranteed returns	<input type="radio"/>	<input checked="" type="radio"/>	<input type="radio"/>	<input type="radio"/>
Capital protection	<input type="radio"/>	<input checked="" type="radio"/>	<input type="radio"/>	<input type="radio"/>
Forward-looking performance expectation	<input type="radio"/>	<input checked="" type="radio"/>	<input type="radio"/>	<input type="radio"/>
Risk	<input type="radio"/>	<input type="radio"/>	<input checked="" type="radio"/>	<input type="radio"/>

Ease with which the product can be converted into cash	<input type="radio"/>	<input checked="" type="radio"/>	<input type="radio"/>	<input type="radio"/>
Other	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>

### Please explain your answer to question 4.8:

*5000 character(s) maximum*

including spaces and line breaks, i.e. stricter than the MS Word characters counting method.

MiFID II has established a comprehensive cost disclosure regime that includes requiring that appropriate information on costs in relation to financial products as well as investment and ancillary services is provided in good time to the clients (i.e. before any transaction is concluded and on an annual basis, in certain cases).

### Question 4.9 Do you consider that the current regime is sufficiently strong to ensure costs and cost impact transparency for retail investors?

**In particular, would an annual ex post information on costs be useful for retail investors in all cases?**

- ☐ Yes
- ☐ No
- ☒ Don't know / no opinion / not applicable

### Please explain your answer to question 4.9:

*5000 character(s) maximum*

including spaces and line breaks, i.e. stricter than the MS Word characters counting method.

Generally, we argue that consumers should be informed about the costs prior to them making a decision or concluding a transaction. We nevertheless believe that it could be beneficial to introduce an obligation for investment firms to provide periodically (e.g. per annum) ex post information on costs to their retail client. This information would help these clients to have a better insight in their incurred costs, if presented in a well-designed way. We don't know whether this would be relevant "in all cases".

Studies show that due to the complexity of products and the amount of the aggregate pre-contractual information provided to retail investors, there is a risk that investors are not able to absorb all the necessary information due to information overload. This can lead to suboptimal investment decisions.

**Question 4.10 What should be the maximum length of the PRIIPs Key Information Document, or a similar pre-contractual disclosure document, in terms of number of words?**

**Please explain your answer:**

*5000 character(s) maximum*

including spaces and line breaks, i.e. stricter than the MS Word characters counting method.

This answer should follow from research among retail investors, not the point of view of policy advisors. Even though the length of a document is one of the factors that should be taken into consideration in the usability of the document, long documents could work, but only if they are structured well and according to the questions retail investors may want to be answered. However, if we still assume traditional paper or pdf information provision, we believe it should be limited to 1 to 2 pages. Text needs to be combined with visual information. The structure needs to follow the understanding and key questions of retail investors, while also making salient the most important information according to us as experts.

**Question 4.11 How should disclosure requirements for products with more complex structures, such as derivatives and structured products, differ compared to simpler products, for example in terms of additional information to be provided, additional explanations, additional narratives, etc.?**

**Please explain your answer:**

*5000 character(s) maximum*

including spaces and line breaks, i.e. stricter than the MS Word characters counting method.

If the products are complex and therefore information is more complex, one should have fewer expectations about the protective power of information provision. Still, a structure following key questions of investors instead of structuring according the products characteristics, using simple language, and possibly giving scenarios to understand might be recommendable.

**Question 4.12 Should distributors of retail financial products be required to make pre-contractual disclosure documents available:**

- ☐ On paper by default?
- ☒ In electronic format by default, but on paper upon request?
- ☐ In electronic format only?

- ☐ Don't know / no opinion / not applicable

**Please explain your answer to question 4.12:**

*5000 character(s) maximum*

including spaces and line breaks, i.e. stricter than the MS Word characters counting method.

In the Netherlands, a large share of retail investors already receive investment services digitally. For them, receiving pre-contractual information electronically by default would be intuitive. Nevertheless, it should be made possible to request disclosure documents on paper.

**Question 4.13 How important is it that information documents be translated into the official language of the place of distribution?**

- ☐ Not at all important
- ☐ Rather not important
- ☐ Neutral
- ☐ Somewhat important
- ☒ Very important
- ☐ Don't know / no opinion / not applicable

**Please explain your answer to question 4.13:**

*5000 character(s) maximum*

including spaces and line breaks, i.e. stricter than the MS Word characters counting method.

**Question 4.14 How can access, readability and intelligibility of pre-contractual retail disclosure documents be improved in order to better help retail investors make investment decisions?**

**Please explain your answer:**

*5000 character(s) maximum*

including spaces and line breaks, i.e. stricter than the MS Word characters counting method.

It is important however to design, test and adjust (a new design) of disclosure documents. This research should be done among retail investors to understand better their behaviour when confronted with these documents.

First, one should want to know how to improve the timing of the information: where does the pre-contractual information pop up in the customer journey at the moment, and what would be more optimal? To what extent does it affect investment decisions? What are other important factors that influence investment decisions? Can the key information be made available and more salient?

Second, one should understand how to improve the documents itself. Uniform standardized brief summary information sheets that immediately make clear how people can use them, what they have to do to use them properly. The title could immediately refer to the use of it – lab research in the NL showed that a name that immediately makes clear what the document can be used for made 6% more participants open it.

**Question 4.15 When information is disclosed via digital means, how important is it that:**

	1 (not at all important)	2 (rather not important)	3 (neutral)	4 (somewhat important)	5 (very important)	Don't know - No opinion - Not applicable
There are clear rules to prescribe presentation formats (e.g. readable font size, use of designs/colours, etc.)?	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input checked="" type="radio"/>	<input type="radio"/>
Certain key information (e.g. fees, charges, payment of inducements, information relative to performance, etc.) is displayed in ways which highlight the prominence?	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input checked="" type="radio"/>	<input type="radio"/>
Format of the information is adapted to use on different kinds of device (for example through use of layering)?	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input checked="" type="radio"/>	<input type="radio"/>	<input type="radio"/>
Appropriately labeled and relevant hyperlinks are used to provide access to supplementary information?	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input checked="" type="radio"/>	<input type="radio"/>	<input type="radio"/>
Use of hyperlinks is limited (e.g. one click only – no cascade of links)?	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input checked="" type="radio"/>	<input type="radio"/>	<input type="radio"/>
Contracts cannot be concluded until the consumer has scrolled to the end of the document?	<input type="radio"/>	<input checked="" type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>
Other?	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>

## Please explain your answer to question 4.15:

*5000 character(s) maximum*

including spaces and line breaks, i.e. stricter than the MS Word characters counting method.

## 5. The PRIIPs Regulation

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In accordance with the [PRIIPs Regulation](#), and as part of the retail investment strategy, the Commission is seeking views on the PRIIPs Regulation. In February 2021, [the ESAs agreed on a draft amending Regulatory Technical Standard](#) aimed at improving the delegated (level 2) regulation. The Commission is now assessing the PRIIPS Regulation level 1 rules, in line with the review clause contained in the Regulation.

### Core objectives of the PRIIPs Regulation

**Question 5.1** Has the PRIIPs Regulation met the following core objectives:

**a) Improving the level of understanding that retail investors have of retail investment products:**

- ☐ Yes
- ☐ No
- ☐ Don't know / no opinion / not applicable

**Please explain your answer to question 5.1 a):**

*5000 character(s) maximum*

including spaces and line breaks, i.e. stricter than the MS Word characters counting method.

Behavioural insights have indicated that retail investors are not empowered to make better decisions based on the information presented in the KID. Not all information in the PRIIPs KID is useful for retail investors.

**b) Improving the ability of retail investors to compare different retail investment products, both within and among different product types:**

- ☐ Yes
- ☐ No
- ☐ Don't know / no opinion / not applicable

**Please explain your answer to question 5.1 b):**

*5000 character(s) maximum*

including spaces and line breaks, i.e. stricter than the MS Word characters counting method.

Although PRIIPs has played a role in making products more comparable, we believe the complexity of products make comparisons of products challenging. We believe the combination of a wide scope for PRIIPS and a 'one size fits all' approach have resulted in an approach that is not equally suitable for all the products it covers. As a result, KIDs do not always provide an accurate/relevant picture of the relevant product.

**c) Reducing the frequency of mis-selling of retail investment products and the number of complaints:**

- ☐ Yes
- ☐ No
- ☒ Don't know / no opinion / not applicable

**Please explain your answer to question 5.1 c):**

*5000 character(s) maximum*

including spaces and line breaks, i.e. stricter than the MS Word characters counting method.

**d) Enabling retail investors to correctly identify and choose the investment products that are suitable for them, based on their individual sustainability preferences, financial situation, investment objectives and needs and risk tolerance:**

- ☐ Yes
- ☐ No
- ☐ Don't know / no opinion / not applicable

**Please explain your answer to question 5.1 d):**

*5000 character(s) maximum*

including spaces and line breaks, i.e. stricter than the MS Word characters counting method.

Research showed that retail investors find it difficult to make a choice between different retail products, even when there was a 'best choice' (namely the same return, but less costs) among the options. The conclusion of this study was that the information is difficult for retail investors to understand. The KID contains many different figures. This appears to cause something of an information overload for retail investors.



**Question 5.2 Are retail investors easily able to find and access PRIIPs KIDs and PEPP KIDs?**

- ☐ Yes
- ☐ No
- ☒ Don't know / no opinion / not applicable

**Please explain your answer to question 5.2:**

*5000 character(s) maximum*

including spaces and line breaks, i.e. stricter than the MS Word characters counting method.

**Question 5.2.1 What could be done to improve the access to PRIIPs KIDs and PEPP KIDs?**

	Yes	No	Don't know - No opinion - Not applicable
Requiring PRIIPs KIDs and PEPP KIDs to be uploaded onto a searchable EU-wide database	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>
Requiring PRIIPs KIDs and PEPP KIDs to be uploaded onto a searchable national database	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>
Requiring PRIIPs KIDs and PEPP KIDs to be made available in a dedicated section on manufacturer and distributor websites	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>
Other	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>

**Please explain your answer to question 5.2.1:**

*5000 character(s) maximum*

including spaces and line breaks, i.e. stricter than the MS Word characters counting method.

## The PRIIPs KID

**Question 5.3 Should the PRIIPs KID be simplified, and if so, how (while still fulfilling its purpose of providing uniform rules on the content of a KID which shall be accurate, fair, clear, and not misleading)?**

- ☐ Yes
- ☐ No
- ☐ Don't know / no opinion / not applicable

**Please explain your answer to question 5.3:**

*5000 character(s) maximum*

including spaces and line breaks, i.e. stricter than the MS Word characters counting method.

## Implementation and supervision of the PRIIPs Regulation

**Question 5.4 Can you point to any inconsistencies or discrepancies in the actual implementation of the PRIIPs Regulation across PRIIPs manufacturers, distributors, and across Member States?**

- ☐ Yes
- ☐ No
- ☐ Don't know / no opinion / not applicable

**Please explain your answer to question 5.4:**

*5000 character(s) maximum*

including spaces and line breaks, i.e. stricter than the MS Word characters counting method.

**5.5 In your experience, is the supervision of PRIIPs KIDs consistent across Member States?**

- ☐ Yes
- ☐ No

☐ Don't know / no opinion / not applicable

**Please explain your answer to question 5.5:**

*5000 character(s) maximum*

including spaces and line breaks, i.e. stricter than the MS Word characters counting method.

**Question.5.6 What is in your experience as a product manufacturer, the cost of manufacturing:**

**5.6 a) A single PRIIPs KID (cost in € per individual product)**

 €

**Please explain your answer to question 5.6 a):**

*5000 character(s) maximum*

including spaces and line breaks, i.e. stricter than the MS Word characters counting method.

**5.6 b) A single PEPP KID (cost in € per individual product)**

 €

**Please explain your answer to question 5.6 b):**

*5000 character(s) maximum*

including spaces and line breaks, i.e. stricter than the MS Word characters counting method.

**5.6 c) A single Insurance Product Information Document (cost in € per individual product)**

 €

**Please explain your answer to question 5.6 c):**

*5000 character(s) maximum*

including spaces and line breaks, i.e. stricter than the MS Word characters counting method.

**Question 5.7 What is in your experience as a product manufacturer the cost of updating:**

**5.7 a) A single PRIIPs KID (cost in € per individual product)**

 €

**Please explain your answer to question 5.7 a):**

*5000 character(s) maximum*

including spaces and line breaks, i.e. stricter than the MS Word characters counting method.

**5.7 b) A single PEPP KID (cost in € per individual product)**

 €

**Please explain your answer to question 5.7 b):**

*5000 character(s) maximum*

including spaces and line breaks, i.e. stricter than the MS Word characters counting method.

**5.7 c) A single Insurance Product Information Document (cost in € per individual product)**

 €

**Please explain your answer to question 5.7 c):**

*5000 character(s) maximum*

including spaces and line breaks, i.e. stricter than the MS Word characters counting method.

### Question 5.8 Which factors of preparing, maintaining, and distributing the KID are the most costly?

Please select as many answers as you like

- ☐ Collecting product data/inputs
- ☐ Performing the necessary calculations
- ☐ Updating IT systems
- ☐ Quality and content check
- ☐ Outsourcing costs
- ☐ Other

### Please explain your answer to question 5.8:

*5000 character(s) maximum*

including spaces and line breaks, i.e. stricter than the MS Word characters counting method.

## Multiple-Option Products

For PRIIPs offering the retail investor a range of options for investments (Multiple Option Products) the PRIIPs Regulation currently provides the manufacturer with two different approaches for how to structure the KID:

- A separate KID can be prepared for each investment option (Article 10(a))
- A generic KID covering in general terms the types of investment options offered and separate information on each underlying investment option (Article 10(b))

According to feedback, both of these options present drawbacks, including challenges for retail investors to compare multiple option products with each other, in particular regarding costs.

An alternative approach would therefore be to require the provision of only one information document for the whole Multiple-Option Product, depending on the underlying investment options that the retail investors would prefer.

### Question 5.9 Should distributors and/or manufacturers of Multiple Option Products be required to provide retail investors with a single, tailor-made,

**KID, reflecting the preferred underlying portfolio of each investor?**

**What should happen in the case of ex-post switching of the underlying investment options?**

- ☐ Yes
- ☐ No
- ☐ Don't know / no opinion / not applicable

**Please explain your answer to question 5.9:**

*5000 character(s) maximum*

including spaces and line breaks, i.e. stricter than the MS Word characters counting method.

## Scope

The scope of the PRIIPs Regulation currently excludes certain pension products, despite qualifying under the definition of packaged retail investment products. These include pension products which, under national law, are recognised as having the primary purpose of providing the investor with an income in retirement and which entitle the investor to certain benefits. These also include individual pension products for which a financial contribution from the employer is required by national law and where the employer or the employee has no choice as to the pension product or provider.

**Question 5.10 Should the scope of the PRIIPs Regulation include the following products?**

**a) Pension products which, under national law, are recognised as having the primary purpose of providing the investor with an income in retirement and which entitle the investor to certain benefits:**

- ☒ Yes
- ☐ No
- ☐ Don't know / no opinion / not applicable

**Please explain why the scope of the PRIIPs Regulation should include these pension products:**

*5000 character(s) maximum*

including spaces and line breaks, i.e. stricter than the MS Word characters counting method.

**b) Individual pension products for which a financial contribution from the employer is required by national law and where the employer or the employee has no choice as to the pension product or provider:**

- ☒ Yes
- ☐ No
- ☐ Don't know / no opinion / not applicable

**Please explain why the scope of the PRIIPs Regulation should include these individual pension products:**

*5000 character(s) maximum*

including spaces and line breaks, i.e. stricter than the MS Word characters counting method.

The ability to access past versions of PRIIPS KIDs from a manufacturer is useful in showing how its product portfolio has evolved (e.g. evolution of risk indicators, costs, investment strategies, performance scenarios, etc.) that cannot be understood from simply looking at the latest versions of PRIIPS disclosure documents of currently marketed products.

**Question 5.11 Should retail investors be granted access to past versions of PRIIPs KIDs?**

- ☐ Yes
- ☐ No
- ☐ Don't know / no opinion / not applicable

**Please explain your answer to question 5.11:**

*5000 character(s) maximum*

including spaces and line breaks, i.e. stricter than the MS Word characters counting method.

**Question 5.12** The PRIIPs KIDs should be reviewed at least every 12 months and if the review concludes that there is a significant change, also updated.

**Question 5.12.1** Should the review and update occur more regularly?

- ☐ Yes
- ☐ No
- ☐ Don't know / no opinion / not applicable

**Question 5.12.2** Should this depend on the characteristics of the PRIIPs?

- ☐ Yes
- ☐ No
- ☐ Don't know / no opinion / not applicable

**Question 5.12.3** What should trigger the update of PRIIP KIDs?

*5000 character(s) maximum*

including spaces and line breaks, i.e. stricter than the MS Word characters counting method.

**Please explain your answer to question 5.12:**

*5000 character(s) maximum*

including spaces and line breaks, i.e. stricter than the MS Word characters counting method.

## 6. Suitability and appropriateness assessment

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Under current EU rules, an investment firm providing advice or portfolio management to a retail investor must collect information about the client and make an assessment that a given investment product is suitable for them before it can recommend a product to a client or invest in it on the client's behalf. Similar rules exist for the sale of insurance-based investment products and of Pan-European Pension Products. The objective of these rules is to protect retail investors and ensure that they are not advised to buy products that may not be suitable for them. The suitability assessment process may however sometimes be perceived as lengthy and ineffective.



**Question 6.1 To what extent do you agree that the suitability assessment conducted by an investment firm or by a seller of insurance-based investment products serves retail investor needs and is effective in ensuring that they are not offered unsuitable products?**

- ☐ Strongly disagree
- ☐ Disagree
- ☐ Neutral
- ☒ Agree
- ☐ Strongly agree
- ☐ Don't know / no opinion / not applicable

**Please explain your answer to question 6.1:**

*5000 character(s) maximum*

including spaces and line breaks, i.e. stricter than the MS Word characters counting method.

In our experience, a suitability assessment, although useful, by itself would not be sufficient to prevent unsuitable products from entering the market. In addition to a strong POG framework and a carefully designed choice environment in the retail investor's interest, especially for online environments, a ban on inducements, is crucial for improving investors' outcomes.

**Question 6.2 Can you identify any problems with the suitability assessment?**

- ☐ Yes
- ☐ No
- ☐ Don't know / no opinion / not applicable

**Question 6.3 Are the rules on suitability assessments sufficiently adapted to the increasing use of online platforms or brokers when they are providing advice?**

- ☐ Yes
- ☐ No
- ☒ Don't know / no opinion / not applicable

**Please explain your answer to question 6.3:**

*5000 character(s) maximum*

including spaces and line breaks, i.e. stricter than the MS Word characters counting method.

Where investment firms do not provide advice or portfolio management, they are still required to request information on the knowledge and experience of clients to assess whether the investment service or product is appropriate, and to issue a warning in case it is deemed inappropriate. Similar rules apply to sales of insurance-based investment products where in specific cases the customer has made use of a right provided under national law to opt out of a full suitability assessment.

**Question 6.4 To what extent do you agree that the appropriateness test serves retail investor needs and is effective in ensuring that they do not purchase products they are not able to understand or that are too risky for their client profile?**

- ☐ Strongly disagree
- ☐ Disagree
- ☒ Neutral
- ☐ Agree
- ☐ Strongly agree
- ☐ Don't know / no opinion / not applicable

**Please explain your answer to question 6.4:**

*5000 character(s) maximum*

including spaces and line breaks, i.e. stricter than the MS Word characters counting method.

Appropriateness tests, when properly designed, contribute to ensuring that retail investors buy appropriate products. However, they are not a panacea. Solely relying on knowledge and experience as reliable indicators to determine the appropriateness of an investment product is doubtful. To be meaningful, the appropriateness test should be accompanied by strong product oversight and governance (POG) supervision and a carefully designed choice environment that is in the interest of consumers. Furthermore, relying too much on voluntary tests and ineffective warnings could lead to a 'tick the box' exercise that can be easily circumvented.

**Question 6.5 Can you identify any problems with the test and if so, how might they be addressed (e.g. is the appropriateness test adequate in view of the risk of investors purchasing products that may not be appropriate for them)?**

- ☐ Yes
- ☐ No
- ☒ Don't know / no opinion / not applicable

**Please explain your answer to question 6.5:**

*5000 character(s) maximum*

including spaces and line breaks, i.e. stricter than the MS Word characters counting method.

**Question 6.6 Are the rules on appropriateness tests sufficiently adapted to the increasing use of online platforms or brokers?**

- ☐ Yes
- ☒ No
- ☐ Don't know / no opinion / not applicable

**Please explain your answer to question 6.6:**

*5000 character(s) maximum*

including spaces and line breaks, i.e. stricter than the MS Word characters counting method.

As stated above, in an online and digital environment it is crucial that the choice environment is carefully designed and POG supervision is adequate to protect retail investors. Behavioural studies reveal that the choice environment strongly influences consumer decision-making. The choice environment – how financial institutions present choices and information to consumers – substantially influences consumer decisions. We should therefore ensure that behavioural insights are used to designing choice architectures that lead retail clients toward products and activities that are in their own best interest.

**Question 6.7 Do you consider that providing a warning about the fact that a product is inappropriate is sufficient protection for retail investors?**

- ☐ Yes
- ☒ No
- ☐ Don't know / no opinion / not applicable

**Please explain your answer to question 6.7:**

*5000 character(s) maximum*

including spaces and line breaks, i.e. stricter than the MS Word characters counting method.

Investors can ignore these warnings and can thus still access these products that are deemed unsuited for them.

In case of the execution of orders or transmission and reception of orders of certain non-complex products, at the initiative of the client, no appropriateness test is required. The investment firm must only inform the client that the appropriateness of the service or product has not been assessed and that he/she does not benefit from the protection of the relevant rules on conduct of business.

**Question 6.8 Do you agree that no appropriateness test should be required in such situations?**

- ☐

Yes

☐ No

☒ Don't know / no opinion / not applicable

**Please explain your answer to question 6.8:**

*5000 character(s) maximum*

including spaces and line breaks, i.e. stricter than the MS Word characters counting method.

MiFID II requires that when investment firms manufacture financial instruments for sale to clients, they must make sure that:

- those instruments are designed to meet the needs of an identified target market of end clients
- the strategy for distribution of the financial instruments is compatible with the identified target market
- and they must take reasonable steps to ensure that the financial instrument is distributed to the identified target market

The investment firms that offer or recommend such financial instruments (the distributors) must be able to understand them, assess their compatibility with the needs of their clients and take into account the identified target market of end clients.

**Question 6.9 Does the target market determination process (at the level of both manufacturers and distributors) need to be improved or clarified?**

☐ Yes

☒ No

☐ Don't know / no opinion / not applicable

**Please explain your answer to question 6.9:**

*5000 character(s) maximum*

including spaces and line breaks, i.e. stricter than the MS Word characters counting method.

**Demands and needs test (specific to the Insurance Distribution Directive (IDD))**

Before selling an insurance product or insurance-based investment product, insurance distributors are obliged to have a dialogue with their customers to determine their demands and needs so that they are able to propose products offering adequate characteristics and coverage for the specific situation of the customer. Any products proposed must be consistent with the customer's demands and needs. In the case of insurance-based investment products, this requirement comes in addition to the suitability assessment.

**Question 6.10 To what extent do you agree that, in its current form, the demands and needs test is effective in avoiding mis-selling of insurance products and in ensuring that products distributed correspond to the individual situation of the customer?**

- ☐ Strongly disagree
- ☐ Disagree
- ☒ Neutral
- ☐ Agree
- ☐ Strongly agree
- ☐ Don't know / no opinion / not applicable

**Please explain your answer to question 6.10:**

*5000 character(s) maximum*

including spaces and line breaks, i.e. stricter than the MS Word characters counting method.

**Question 6.11 Can you identify any problems with the demands and needs test, in particular its application in combination with the suitability assessment in the case of insurance-based investment products?**

- ☐ Yes
- ☒ No
- ☐ Don't know / no opinion / not applicable

**Please explain your answer to question 6.11:**

*5000 character(s) maximum*

including spaces and line breaks, i.e. stricter than the MS Word characters counting method.

In our view, demand and need tests seem to be abundant given the existence of suitability tests. This could be overly complex from the perspective of the consumer. In the case of advice there is the suitability test for insurance based products. This test is sufficient.

The IDD does not contain detailed rules on the demands and needs test and leaves it to Member States to decide on the details of how the test is applied in practice. This results in differences between Member States.

**Question 6.12 Are more detailed rules needed in EU law regarding the demands and needs test to make sure that it is applied in the same manner throughout the internal market?**

- ☐ Yes
- ☒ No
- ☐ Don't know / no opinion / not applicable

**Please explain your answer to question 6.12:**

*5000 character(s) maximum*

including spaces and line breaks, i.e. stricter than the MS Word characters counting method.

As stated above, in our view an inducement ban for investment products and stricter supervision on POG are more important measures to improve investor protection.

**Question 6.13.1 Is the demands and needs test sufficiently adapted to the online distribution of insurance products?**

- ☒ Yes
- ☐ No
- ☐ Don't know / no opinion / not applicable

**Question 6.13.2 Are procedural improvements or additional rules or guidance needed to ensure the correct and efficient application of the test in cases of online distribution?**

- ☒ Yes
- ☐ No
- ☐ Don't know / no opinion / not applicable

**Please explain your answer to question 6.13:**

*5000 character(s) maximum*

including spaces and line breaks, i.e. stricter than the MS Word characters counting method.

The demands and needs test is sufficiently adapted to the online distribution of insurance products. There is no need to ensure the correct and efficient application of the test in cases of online distribution.

## 7. Reviewing the framework for investor categorisation

As announced under Action 8 of the [capital markets union action plan](#), the Commission intends to assess the appropriateness of the existing investor categorisation framework and, if appropriate, adopt a legislative proposal aimed at reducing the administrative burden and information requirements for a subset of retail investors. This will involve the review of the existing investor categorisation (namely the criteria required to qualify as a professional investor) or the introduction of a new category of *qualified* investor in [MiFID II](#).

Currently, under MiFID II, retail investors are defined as those that do not qualify to be professional investors. Where investors choose to opt into the professional category, the intermediary must warn the investor of the level of protection they will cease to have and the investor must comply with at least two of the three following criteria

- the client has carried out transactions, in significant size, on the relevant market for the financial instrument or for similar instruments with an average frequency of at least 10 transactions per quarter over the previous four quarters
- the size of the client's financial instrument portfolio composed of cash deposits and financial instruments must be larger than €500,000
- the client currently holds or has held for at least one year a professional position in the financial sector which requires knowledge of the envisaged financial transactions or services

Retail investors are currently subject to a number of additional investment protection measures, such as prohibition to acquire certain products as well as additional disclosure information. Some stakeholders have argued that for certain investors that currently fall under the retail investor category, these protections are not necessary. The creation of a new client category or the modification of the existing requirements for professional clients on request could thus give a subset of investors a broader and more comprehensive access to the capital markets and would bring additional sources of funding to the EU economy.

A well-developed set-up could allow the preservation of the necessary investor protection while improving the engagement in the capital markets.

The [2020 consultation on MiFID](#) already addressed the question of a possible new category of semi professional investor, and the following questions follow-up on the main findings.

### Question 7.1 What would you consider the most appropriate approach for ensuring more appropriate client categorisation?

	Yes	No	Don't know - No opinion - Not applicable
Introduction of an additional client category (semi-professional) of investors	<input type="radio"/>	<input checked="" type="radio"/>	<input type="radio"/>
Adjusting the definition of professional investors on request	<input type="radio"/>	<input checked="" type="radio"/>	<input type="radio"/>

No changes to client categorisation (other measures, i.e. increase product access and lower information requirements for all retail investors)	<input checked="" type="radio"/>	<input type="radio"/>	<input type="radio"/>
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### Please explain your answer to question 7.1:

*5000 character(s) maximum*

including spaces and line breaks, i.e. stricter than the MS Word characters counting method.

We are not in favour of changes to the client categorisation because we argue the current categorisation is sufficient. However, we do also not want to lower the protection of all retail investors by lowering current standards (as is stated as the alternative between brackets in the third option). Any improvements, such as reducing information requirements, should be carefully assessed based on the necessity and value this information has for investors in order to improve disclosure from the point of view of the investor. At the same time, we should work on improving the choice environment and incorporating behavioural aspects to ensure adequate protection.

**Question 7.2 How might the following criteria be amended for professional investors upon request?**

**a) The client has carried out transactions, in significant size, on the relevant market at an average frequency of 10 per quarter over the previous four quarters.**

- ☐ No change
- ☒ 30 transactions on financial instruments over the last 12 months, on the relevant market
- ☐ 10 transactions on financial instruments over the last 12 months, on the relevant market
- ☐ Other criteria to measure a client's experience
- ☐ Don't know / no opinion / not applicable

### Please explain your answer to question 7.2 a):

*5000 character(s) maximum*

including spaces and line breaks, i.e. stricter than the MS Word characters counting method.

**b) The size of the client's financial instrument portfolio, defined as including cash deposits and financial instruments exceeds EUR 500,000.**





No change

- ☐ Exceeds EUR 250,000
- ☐ Exceeds EUR 100,000
- ☐ Exceeds EUR 100,000 and a minimum annual income of EUR 100,000
- ☐ Other criteria to measure a client's capacity to bear loss
- ☐ Don't know / no opinion / not applicable

**Please explain your answer to question 7.2 b):**

*5000 character(s) maximum*

including spaces and line breaks, i.e. stricter than the MS Word characters counting method.

**c) The client works or has worked in the financial sector for at least one year in a professional position, which requires knowledge of the transactions or services envisaged.**

- ☒ No change
- ☐ Extend definition to include relevant experience beyond the financial sector (e.g. in a finance department of a company)
- ☐ Adjust the reference to the term 'transactions' in the criteria to instead refer to 'financial instruments'
- ☐ Other criteria to measure a client's financial knowledge
- ☐ Don't know / no opinion / not applicable

**Please explain your answer to question 7.2 c):**

*5000 character(s) maximum*

including spaces and line breaks, i.e. stricter than the MS Word characters counting method.

**d) Clients need to qualify for 2 out of the existing 3 criteria to qualify as professional investors. Should there be an additional fourth criterion, and if so, which one?**

- ☒

No change

- ☐ Relevant certified education or training that allows to understand financial instruments, markets and their related risks
- ☐ An academic degree in the area of finance/business/economics
- ☐ Experience as an executive or board member of a company of a significant size
- ☐ Experience as a business angel (i.e. evidenced by membership of a business angel association)
- ☐ Other criteria to assess a client's ability to make informed investment decisions
- ☐ Don't know / no opinion / not applicable

**Please explain your answer to question 7.2 d):**

*5000 character(s) maximum*

including spaces and line breaks, i.e. stricter than the MS Word characters counting method.

Companies below the thresholds currently set out in MiFID II (2 of 3: turnover of €40 mln, balance sheet of €20 mln and own funds of €2 mln) would also qualify as retail investors.

**Question 7.3 Would you see merit in reducing these thresholds in order to make it easier for companies to carry out transactions as professional clients?**

- ☒ No change
- ☐ Reduce thresholds by half
- ☐ Other criteria to allow companies to qualify as professional clients
- ☐ Don't know / no opinion / not applicable

**Please explain your answer to question 7.3:**

*5000 character(s) maximum*

including spaces and line breaks, i.e. stricter than the MS Word characters counting method.

## 8. Inducements and quality of advice

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EU legislation sets out requirements on the provision of investment advice and around the payment of commissions and other forms of inducements to sellers of financial products. In the case of investment services and activities, investment firms must, for example, inform the prospective client whether any advice provided is on an independent basis, about the range of products being offered and any conflicts of interest that may impair independence. Use of inducements is restricted (i.e. any payment must be designed to enhance the quality of the relevant service to the client and it must not impair compliance with the investment firm's duty to act honestly, fairly and professionally in accordance with the best interest of its clients). Any payments to investment firms for the distribution of investment products must also be clearly disclosed. The rules slightly differ for the sale of insurance-based investment products: inducements may only be received if they do not have a detrimental impact on the quality of the service to the customer. However, there is no general prohibition on the payment of inducements if the seller declares that advice is given independently. Under [UCITS](#) and [AIFMD](#), asset managers are also subject to rules on conflict of interests and inducements.

However despite these rules, concerns have been expressed that the payment of inducements may lead to conflicts of interest and biased advice, since salespersons may be tempted to recommend products that pay the highest inducements, irrespective of whether or not it is the best product for the client. For this reason, the Netherlands has banned the payment of inducements. On the other hand, other stakeholders have argued that the consequence of banning inducements might be that certain retail investors would be unable or unwilling to obtain advice, for which they would need to pay. Questions on inducements have also been asked in the [MiFID/R consultation](#) which was conducted at the beginning of 2020.

**Question 8.1 How effective do you consider the following measures to/would be in protecting retail investors against receiving biased advice due to potential conflicts of interest?**

	1 (not at all effective)	2 (rather not effective)	3 (neutral)	4 (somewhat effective)	5 (very effective)	Don't know - No opinion - Not applicable
Ensuring transparency of inducements for clients	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input checked="" type="radio"/>	<input type="radio"/>	<input type="radio"/>
An obligation to disclose the amount of inducement paid	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input checked="" type="radio"/>	<input type="radio"/>	<input type="radio"/>
Allowing inducements only under certain conditions, e.g. if they serve the improvement of quality	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input checked="" type="radio"/>	<input type="radio"/>	<input type="radio"/>
Obliging distributors to assess the investment products they recommend against similar products available on the market in terms of overall cost and expected performance	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input checked="" type="radio"/>	<input type="radio"/>	<input type="radio"/>
Introducing specific record-keeping and reporting requirements for distributors of retail investment products to provide a breakdown of products distributed, thus allowing for supervisory scrutiny and better enforcement of the existing rules on inducements	<input type="radio"/>	<input type="radio"/>	<input checked="" type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>
Introducing a ban on all forms of inducements for every retail investment product across the Union	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input checked="" type="radio"/>	<input type="radio"/>

## Please explain your answer to question 8.1:

*5000 character(s) maximum*

including spaces and line breaks, i.e. stricter than the MS Word characters counting method.

Conflicts of interest pose a risk to safe environment that should enable consumers to make the right choices. These conflicts of interest could result either from inducements being paid to advisors by product manufacturers or from payment for order flow (PFOF). Both may result in suboptimal environments where the interests of the broker or advisor does not align with the interest of the end consumer, the retail investor.

In our view, transparency about these payments would be a (small) improvement, but it would not sufficiently resolve these conflicts of interest. To ensure fair treatment of consumers and investors, inducements for investment products and services should be banned across the European Union.

**Question 8.2 If all forms of inducement were banned for every retail investment product across the Union:**

### **a) what impacts would this have on the availability of advice for retail investors? Please explain your answer:**

*5000 character(s) maximum*

including spaces and line breaks, i.e. stricter than the MS Word characters counting method.

Our experience with such a ban over the past decade shows that transparency in the markets improves and the costs of investing are lowered. Furthermore, firms are incentivised to act in the interest of the retail investor and diversify their offering with more cost-efficient and innovative products and services. Our evaluation of the effects of that ban showed that it had benefitted consumers without negatively affecting the access to financial advice. There are indications that the quality of advice has improved, although this cannot entirely be attributed to the ban.

In the Netherlands, there was already a high share of retail investors that invest through execution only services. The high adoption rate of high-speed internet and mobile app usage could explain part of this high share. The demand for advice was already declining prior to the introduction of the inducement ban. However, this trend did not accelerate afterwards, indicating a limited negative (side) effect on the access to financial advice.

### **b) what impacts would this have on the quality of advice for retail investors? Please explain your answer:**

*5000 character(s) maximum*

including spaces and line breaks, i.e. stricter than the MS Word characters counting method.

See a)

### **c) what impacts would this have on the way in which retail investors would invest in financial instruments? Please explain your answer:**

5000 character(s) maximum

including spaces and line breaks, i.e. stricter than the MS Word characters counting method.

See a)

**d) what impacts would this have on how much retail investors would invest in financial instruments? Please explain your answer:**

5000 character(s) maximum

including spaces and line breaks, i.e. stricter than the MS Word characters counting method.

See a)

**Question 8.3 Do the current rules on advice and inducements ensure sufficient protection for retail investors from receiving poor advice due to potential conflicts of interest:**

	Yes	No	Don't know - No opinion - Not applicable
In the case of investment products distributed under the MiFID II framework?	<input type="radio"/>	<input checked="" type="radio"/>	<input type="radio"/>
In the case of insurance-based investment products distributed under the IDD framework?	<input type="radio"/>	<input checked="" type="radio"/>	<input type="radio"/>
In the case of inducements paid to providers of online platforms/comparison websites?	<input type="radio"/>	<input checked="" type="radio"/>	<input type="radio"/>

**Please explain your answer to question 8.3:**

5000 character(s) maximum

including spaces and line breaks, i.e. stricter than the MS Word characters counting method.

A ban on provision for the distribution of retail investment products is desirable.

**Question 8.4 Should the rules on the payment of inducements paid to distributors of products sold to retail investors be aligned across MiFID and IDD?**

- ☒ Yes
- ☐ No
- ☐ Don't know / no opinion / not applicable

**Please explain your answer to question 8.4:**

*5000 character(s) maximum*

including spaces and line breaks, i.e. stricter than the MS Word characters counting method.

In our view this would be beneficial from the perspective of the consumer and prevent an unlevel playing field between products or opportunities for regulatory arbitrage.

**Question 8.5 How should inducements be regulated?**

Please select as many answers as you like

- ☐ Ensuring transparency of inducements for clients
- ☐ Ensuring transparency of inducements for clients, including an obligation to disclose the amount of inducement paid
- ☐ Allowing inducements only under certain conditions, e.g. if they serve the improvement of quality
- ☐ Obliging distributors to assess the investment products they recommend against similar products available on the market
- ☐ Introducing specific record-keeping and reporting requirements for distributors of retail investment products to provide a breakdown of products distributed, thus allowing for supervisory scrutiny and better enforcement of the existing rules on inducements
- ☒ Introducing a ban on all forms of inducements for every retail investment product across the Union
- ☐ Other

**Please explain your answer to question 8.5:**

*5000 character(s) maximum*

including spaces and line breaks, i.e. stricter than the MS Word characters counting method.

The use of payments for order flow (PFOF), where a broker (or an investment firm) directs the orders of its clients to a single third party for execution against remuneration, appears to be increasingly popular as a business model, in particular in the context of on-line brokerage. This practice is raising concerns in terms of potential conflicts of interest due to payment of inducements and possible breach of the obligations surrounding best execution of the client's orders (i.e. an obligation to execute orders on terms that are most favourable to the client).

**Question 8.6 Do you see a need for legislative changes (or other measures) to address conflicts of interest, receipt of inducements and/or best execution issues surrounding the compensation of brokers (or firms) based on payment for order flow from third parties?**

- ☒ Yes
- ☐ No
- ☐ Don't know / no opinion / not applicable

**If you do see a need for legislative changes, please detail the changes you would consider relevant:**

*5000 character(s) maximum*

including spaces and line breaks, i.e. stricter than the MS Word characters counting method.

As stated above, we are in favour of a EU-wide ban on inducements for investment products.

This would also restrict PFOF-practices. PFOF raises serious investor protection concerns. In our view the receipt of PFOF by investment firms from third parties is not compatible with MiFID II and its delegated acts. MiFID II could and should be reinforced by the introduction of a legislative change that bans the receipt of PFOF in all cases.

**Question 8.7 Do you see a need to improve the best execution regime in order to ensure that retail investors always get the best possible terms for the execution of their orders?**

- ☐ Yes
- ☐ No
- ☒ Don't know / no opinion / not applicable

**Please explain your answer to question 8.7:**

*5000 character(s) maximum*

including spaces and line breaks, i.e. stricter than the MS Word characters counting method.



Financial advisors play a critical role in the distribution of retail investment products, however standards (levels of qualifications, knowledge, skills, etc.) differ across Member States. In order to reduce the risk of mis-selling, increase individual investors' confidence in advice and create a level playing field for market operators offering advice in different Member States, the [2020 CMU action plan](#) proposed that certain professional standards for advisors should be set or further improved.

**Question 8.8 Would you see merit in developing a voluntary pan-EU label for financial advisors to promote high-level common standards across the EU?**

- ☐ Yes
- ☒ No
- ☐ Don't know / no opinion / not applicable

**Please explain your answer to question 8.8 and indicate what would be the main advantages and disadvantages:**

*5000 character(s) maximum*

including spaces and line breaks, i.e. stricter than the MS Word characters counting method.

In the Netherlands we have a high level of professional competence. We would not be directly in favour of a voluntary pan- EU label given our concerns that the European standard for investment advice will be lower than our standard for all financial advisors/distributors.

Robo-advisors, i.e. online platforms providing automated investment advice (and in many cases also portfolio management) are in principle subject to the same investor protection rules as traditional "human" advisors under the MiFID and IDD frameworks. While robo-advisors may offer advantages for retail investors, in particular lower fees, accessible investment thresholds and in principle often impartial advice (unbiased by payment of inducements), robo-advisors may also present risks resulting from, e.g. simplistic non-dynamic algorithms which may not create efficient investment portfolios.

**Question 8.9 Are robo-advisors (or hybrid advisors) regulated in a manner sufficient to protect retail investors?**

- ☐ Yes
- ☐ No
- ☐ Don't know / no opinion / not applicable

**Please explain your answer to question 8.9:**

*5000 character(s) maximum*

including spaces and line breaks, i.e. stricter than the MS Word characters counting method.

**Question 8.10 The use of robo-advisors, while increasing, has not taken off as might have been expected and remains limited in the EU.**

**What do you consider to be the main reason for this?**

- ☐ Lack of awareness about the existence of robo-advisors
- ☐ Greater trust in human advice
- ☐ Other
- ☐ Don't know / no opinion / not applicable

**Please explain your answer to question 8.10:**

*5000 character(s) maximum*

including spaces and line breaks, i.e. stricter than the MS Word characters counting method.

**Question 8.11 Are there any unnecessary barriers hindering the take-up of robo-advice?**

- ☐ Yes
- ☐ No
- ☐ Don't know / no opinion / not applicable

## 9. Addressing the complexity of products

---

Financial products, including those targeted at retail investors, are often highly complex and often not properly understood by retail investors. Consumer representatives have therefore been regularly calling for simple, transparent and cost-efficient products. Less complex products suitable for retail investors exist in different areas, such as UCITS and certain Exchange Traded Funds (ETFs), and have been set as the default option of PEPP.

**Question 9.1 Do you consider that further measures should be taken at EU level to facilitate access of retail investors to simpler investment products?**

- ☒ Yes
- ☐ No
- ☐ Don't know / no opinion / not applicable

## Please explain your answer to question 9.1:

*5000 character(s) maximum*

including spaces and line breaks, i.e. stricter than the MS Word characters counting method.

As said earlier, behavioural aspects of retail investors – the choice environment in which options and information are presented. Its architecture has an impact on investments choices. For instance research suggests when past performances are made salient, people are more likely to suffer from the disposition effect ( selling assets that have increased in value and keeping assets that have dropped in value). The order in which choices are presented is likely to have an impact on choices; and research in the US suggests the color red for negative returns is negatively affecting risk-taking. Research suggests that legally required information is not as salient and attractive as other information in the choice environment, and might therefore play a minor role in the decision processes.

These findings have for instance the following implications:

- Generally we would like to ensure this environment is not designed against the interest of the retail investors.
- We would like to explore and research how the choice environment can make decisions that are likely to be sensible easier (nudge: less clicks, less reading, less warnings), and decisions that are likely less sensible more difficult (sludge: ask questions to investors which they have to answer, show warnings that have to be clicked away after having tested or confirmed that one understood).
- Research ways to integrate standardized information and warnings into the choice architecture, ensure e.g. that retail investors are able to judge the amount of costs by providing them information on the average amount of costs for similar products, as an anchor to be able to compare. People are not able to choose based on an absolute number, they are able to on a relative number. This anchor could perhaps provide a link to the standardized summary sheet (comparable information).

See also our responses to questions 1.1 and 1.6.

**Question 9.2 If further measures were to be taken by the EU to address the complexity of products:**

**a) Should they aim to reinforce or adapt execution of orders rules to better suit digital and online purchases of complex products by retail investors?**

- ☒ Yes
- ☐ No
- ☐ Don't know / no opinion / not applicable

## Please explain your answer to question 9.2 a):

*5000 character(s) maximum*

including spaces and line breaks, i.e. stricter than the MS Word characters counting method.

Yes, given the increased usage of online environments and apps for trading, it is important the choice environment is carefully designed in the interest of the retail investor.

**b) Should they aim to make more explicit the rules which prohibit excess complexity of products that are sold to retail investors?**

- ☐ Yes
- ☒ No
- ☐ Don't know / no opinion / not applicable

**Please explain your answer to question 9.2 b):**

*5000 character(s) maximum*

including spaces and line breaks, i.e. stricter than the MS Word characters counting method.

In our view the current POG-framework is already appropriately designed and applied to all products.

**c) Should they aim to develop a new label for simple products?**

- ☐ Yes
- ☒ No
- ☐ Don't know / no opinion / not applicable

**Please explain your answer to question 9.2 c):**

*5000 character(s) maximum*

including spaces and line breaks, i.e. stricter than the MS Word characters counting method.

The application of POG is already proportional and 'simple' products with this label should not be excluded from POG-requirements.

**d) Should they aim to define and regulate simple, products (e.g. similar to PEPP)?**

- ☐ Yes
- ☐ No
- ☐ Don't know / no opinion / not applicable

**Please explain your answer to question 9.2 d):**

*5000 character(s) maximum*

including spaces and line breaks, i.e. stricter than the MS Word characters counting method.

e) Should they aim to tighten the rules restricting the sale of very complex products to certain categories of investors?

- ☒ Yes
- ☐ No
- ☐ Don't know / no opinion / not applicable

**Please explain your answer to question 9.2 e):**

*5000 character(s) maximum*

including spaces and line breaks, i.e. stricter than the MS Word characters counting method.

However a tightening of these rules will not be very effective if new categories of investors are introduced and /or the retail investor criteria or watered down.

f) Should they have another aim?

- ☐ Yes
- ☐ No
- ☐ Don't know / no opinion / not applicable

## 10. Redress

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There will be occasions when things go wrong with an investment, e.g. if products have been mis-sold to the retail investor. Retail investors have the possibility to address their complaint directly to the firm: MiFID, for example, requires investment firms to establish, implement and maintain effective and transparent complaints management policies and procedures for the prompt handling of clients' complaints and similar provisions are contained in the recent [Crowdfunding Regulation](#). Redress can also be sought through non-judicial dispute resolution procedures or can be obtained in national courts. In certain cases, where large numbers of consumers have suffered harm, collective redress can also be obtained.

**Question 10.1 How important is it for retail investors when taking an investment decision (in particular when investing in another Member State), that they will have access to rapid and effective redress should something go wrong?**

- ☐ Not at all important
- ☐ Rather not important
- ☐

Neutral

- ☒ Somewhat important
- ☐ Very important
- ☐ Don't know / no opinion / not applicable

**Please explain your answer to question 10.1:**

*5000 character(s) maximum*

including spaces and line breaks, i.e. stricter than the MS Word characters counting method.

**Question 10.2 According to MIFID II, investment firms must publish the details of the process to be followed when handling a complaint. Such information must be provided to the client on request or when acknowledging a complaint and the firm must enable the client to submit their complaint free of charge.**

**Is the MiFID II requirement sufficient to ensure an efficient and timely treatment of the clients' complaints?**

- ☐ Yes
- ☐ No
- ☒ Don't know / no opinion / not applicable

**Please explain your answer to question 10.2:**

*5000 character(s) maximum*

including spaces and line breaks, i.e. stricter than the MS Word characters counting method.

We are not aware of any issues. In case the complaint is not handled by the investment firm to the satisfaction of the customer, he/she then has the option to submit the complaint to the ADR-entity.

**Question 10.3 As a retail investor, would you know where to turn in case you needed to obtain redress through an out of court (alternative dispute resolution) procedure?**

- ☒ Yes
- ☐

No

☐ Don't know / no opinion / not applicable

**Please explain your answer to question 10.3:**

*5000 character(s) maximum*

including spaces and line breaks, i.e. stricter than the MS Word characters counting method.

From our perspective, we believe this is the case in the Netherlands. Investment firms are obliged to inform customers of the option to submit their complaint to the ADR-entity. The ADR-entity can also be found relatively easily via internet search machines.

**Question 10.4 How effective are existing out of court/alternative dispute resolution procedures at addressing consumer complaints related to retail investments/insurance based investments?**

- ☐ Not at all effective
- ☐ Rather not effective
- ☐ Neutral
- ☒ Somewhat effective
- ☐ Very effective
- ☐ Don't know / no opinion / not applicable

**Please explain your answer to question 10.4:**

*5000 character(s) maximum*

including spaces and line breaks, i.e. stricter than the MS Word characters counting method.

**Question 10.5 Are further efforts needed to improve redress in the context of retail investment products:**

Please select as many answers as you like

- ☐ Domestically?
- ☐ In a cross border context?

**Please explain your answer to question 10.5:**

*5000 character(s) maximum*

including spaces and line breaks, i.e. stricter than the MS Word characters counting method.

Certain groups of consumers (e.g. the elderly, over-indebted or those with disabilities) can be particularly vulnerable and may need specific safeguards. If the process of obtaining redress is too complex and burdensome for such consumers and lacks a specially adapted process (e.g. assistance on the phone), redress may not be an effective option for them.

**10.6 To what extent do you think that consumer redress in retail investment products is accessible to vulnerable consumers (e.g. over-indebted, elderly, those with disabilities)?**

- ☐ Not accessible at all
- ☐ Rather not accessible
- ☒ Neutral
- ☐ Somewhat accessible
- ☐ Very accessible
- ☐ Don't know / no opinion / not applicable

**Please explain your answer to question 10.6:**

*5000 character(s) maximum*

including spaces and line breaks, i.e. stricter than the MS Word characters counting method.

Kifid mediates between parties for free. Consumers can also opt for a non-binding or binding decision from Kifid. This is also free. It costs 500 euros to appeal the decision.  
Consumers can submit their complaint to Kifid both online as per regular mail. Kifid calls consumers at the beginning of the complaint handling procedure.

## 11. Product intervention powers

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ESMA has been given the power to temporarily prohibit or restrict the marketing, distribution or sale of financial instruments with certain specified features or a type of financial activity or practice (these are known as 'product intervention powers'). EIOPA has similar powers with regard to insurance-based investment products. These powers have been used by ESMA in the past for certain types of high risk product e.g. binary options and contracts for differences (CFDs).

**Question 11.1 Are the European Supervisory Authorities and/or national supervisory authorities making sufficiently effective use of their existing product intervention powers?**





Yes

- ☒ No
- ☐ Don't know / no opinion / not applicable

**Please explain your answer to question 11.1:**

*5000 character(s) maximum*

including spaces and line breaks, i.e. stricter than the MS Word characters counting method.

NCA's could have made more effective use of the Article 42 MiFIR product intervention powers by restricting the distribution and sale to retail clients of other complex and high risk financial instruments than binary options and CFDs. Therefore, we applaud the recent AFM initiative to restrict permanently the distribution and sale of turbos to retail clients in the Netherlands. Nevertheless, for these measures to be considered, it is important to look closely at the local market characteristics to evaluate its necessity.

**Question 11.2 Does the application of product intervention powers available to national supervisory authorities need to be further converged?**

- ☐ Yes
- ☐ No
- ☒ Don't know / no opinion / not applicable

**Please explain your answer to question 11.2:**

*5000 character(s) maximum*

including spaces and line breaks, i.e. stricter than the MS Word characters counting method.

On the one hand, more convergence of the application of product intervention powers taken by the NCAs could be helpful to avoid regulatory arbitrage and to avoid unnecessary difficulties when distributing and selling investment products throughout the Union.

On the other hand, a NCA should be able to make use of its Article 42 MiFIR powers given the national specificities of the retail market in the NCAs jurisdiction. Again (see Q 11.1), we refer to the AFM initiative restricting permanently the distribution and sale of turbos to retail clients in the Netherlands.

**Question 11.3 Do the product intervention powers of the European Supervisory Authorities need to be reinforced?**

- ☒ Yes
- ☐ No
- ☐ Don't know / no opinion / not applicable

**Please explain your answer to question 11.3:**

*5000 character(s) maximum*

including spaces and line breaks, i.e. stricter than the MS Word characters counting method.

As we see it the Article 42 MiFIR product intervention power does not require reinforcement. However, we see a need to reinforce the position of the host member state NCA by enhancing the effectiveness of Article 86 MiFID II.

## 12. Sustainable investing

Citizens are today increasingly aware of the serious economic, environmental and social risks arising from climate change. As retail investors, they are also becoming conscious of the potential contribution they might make towards mitigating those risks by making more sustainable choices when investing and managing their savings. The [2018 European Commission's action plan on financing sustainable growth](#) set the basis for increasing the level of transparency on sustainability investments, through disclosure rules (e.g. Sustainable Finance Disclosure Regulation) and labels (e.g. EU Ecolabel), thereby substantially reducing the risk of greenwashing. In addition, the integration of retail investors' sustainability preferences as a top-up to the suitability assessment and financial advice in IDD and MIFID II delegated acts will ensure that clients are offered financial products and instruments that meet their sustainability preferences.

### Question 12.1 What is most important to you when investing your savings?

	1 (most important)	2	3 (least important)
An investment that contributes positively to the environment and society	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>
An investment that reduces the harm on the environment and society (e.g. environmental pollution, child labour etc.)	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>
Financial returns	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>

**Question 12.2 What would help you most to take an informed decision as regards a sustainable investment?**

	1 (not at all helpful)	2 (rather not helpful)	3 (neutral)	4 (somewhat helpful)	5 (very helpful)	Don't know - No opinion - Not applicable
Measurements demonstrating positive sustainability impacts of investments	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>
Measurements demonstrating negative or low sustainability impacts of investments	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>
Information on financial returns of sustainable investments compared to those of mainstream investments	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>
Information on the share of financial institutions' activities that are sustainable	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>
Require all financial products and instruments to inform about their sustainability ambition	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>
Obligation for financial advisers to offer at least one financial product with minimum sustainability ambition	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>
All financial products offered should have a minimum of sustainability ambition	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>

### Question 12.3 What are the main factors preventing more sustainable investment?

	1 (not at all important)	2 (rather not important)	3 (neutral)	4 (somewhat important)	5 (very important)	Don't know - No opinion - Not applicable
Poor financial advice on sustainable investment opportunities	<input type="radio"/>	<input checked="" type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>
Lack of sustainability-related information in pre-contractual disclosure	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input checked="" type="radio"/>	<input type="radio"/>	<input type="radio"/>
Lack of EU label on sustainability related information	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input checked="" type="radio"/>	<input type="radio"/>	<input type="radio"/>
Lack of financial products that would meet sustainability preferences	<input type="radio"/>	<input type="radio"/>	<input checked="" type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>
Financial products, although containing some sustainability ambition, focus primarily on financial performance	<input type="radio"/>	<input type="radio"/>	<input checked="" type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>
Fear of greenwashing (i.e. where the deceptive appearance is given that investment products are environmentally, socially or from a governance point of view, friendly)	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input checked="" type="radio"/>	<input type="radio"/>
Other	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>

**Question 12.4 Do you consider that detailed guidance for financial advisers would be useful to ensure simple, adequate and sufficiently granular implementation of sustainable investment measures?**

- ☐ Yes
- ☐ No
- ☒ Don't know / no opinion / not applicable

**Please explain your answer to question 12.4:**

*5000 character(s) maximum*

including spaces and line breaks, i.e. stricter than the MS Word characters counting method.

We recognise that financial advisors play an important role in enabling retail clients to make sustainable investments. Financial advisors are faced with new EU legislation around ESG investing, for example the SFRD. It could be possible that financial advisors would be more effective in their advice if they receive detailed guidance. However, we currently lack insights whether this could be helpful.

MiFID II regulates the way investment firms produce or arrange for the production of investment research to be disseminated to their clients or to the public. This concerns investment research i.e. research or other information recommending or suggesting an investment strategy, explicitly or implicitly, concerning one or several financial instruments or the issuer of financial instruments. In the context of the COVID-19 pandemic, the research regime has been reviewed in order to facilitate the production of research on the small and medium enterprises and encourage more funding from the capital markets. In order to also encourage more sustainable investments, it is fundamental that investment research consider the E (environmental,) S (social) and G (corporate governance) factors of the Issuers and financial instruments covered by that research.

**Question 12.5 Would you see any need to reinforce the current research regime in order to ensure that ESG criteria are always considered?**

- ☐ Yes
- ☒ No
- ☐ Don't know / no opinion / not applicable

**Please explain your answer to question 12.5:**

*5000 character(s) maximum*

including spaces and line breaks, i.e. stricter than the MS Word characters counting method.

Information on ESG is key when making an investment decision. Therefore, we would argue that investment research is more relevant for (potential) investors, when it takes into account ESG-factors. However, at the same time we believe that if there is demand for certain factors, the market will provide it. We therefore are currently not convinced the research regime should be reinforced.

## 13. Other issues

**Question 13. Are there any other issues that have not been raised in this questionnaire that you think would be relevant to the future retail investments strategy? Please explain your answer:**

*5000 character(s) maximum*

including spaces and line breaks, i.e. stricter than the MS Word characters counting method.

## Additional information

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Should you wish to provide additional information (e.g. a position paper, report) or raise specific points not covered by the questionnaire, you can upload your additional document(s) below. **Please make sure you do not include any personal data in the file you upload if you want to remain anonymous.**

The maximum file size is 1 MB.

You can upload several files.

Only files of the type pdf,txt,doc,docx,odt,rtf are allowed

**2eb456ef-dea7-42a7-891b-9f79876120b0/Non-**

**paper\_MinFin\_NL\_and\_AFM\_on\_the\_Retail\_Investment\_Strategy\_Final\_-\_July\_2021\_.pdf**

## Useful links

[More on this consultation \(https://ec.europa.eu/info/publications/finance-consultations-2021-retail-investment-strategy\\_en\)](https://ec.europa.eu/info/publications/finance-consultations-2021-retail-investment-strategy_en)

[Consultation document \(https://ec.europa.eu/info/files/2021-retail-investment-strategy-consultation-document\\_en\)](https://ec.europa.eu/info/files/2021-retail-investment-strategy-consultation-document_en)

[More on retail financial services \(https://ec.europa.eu/info/business-economy-euro/banking-and-finance/consume-finance-and-payments/retail-financial-services\\_en\)](https://ec.europa.eu/info/business-economy-euro/banking-and-finance/consume-finance-and-payments/retail-financial-services_en)

[Specific privacy statement \(https://ec.europa.eu/info/law/better-regulation/specific-privacy-statement\\_en\)](https://ec.europa.eu/info/law/better-regulation/specific-privacy-statement_en)

More on the Transparency register (<http://ec.europa.eu/transparencyregister/public/homePage.do?locale=en>)

## **Contact**

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