

Public consultation on a retail investment strategy for Europe

Fields marked with * are mandatory.

Introduction

This consultation will soon also be available in 23 European Union official languages.

If you wish to respond in one of these languages, please wait until then to provide your replies.

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

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.

More information on

- [this consultation](#)

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

About you

* 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

* Level of governance

- Local Authority
- Local Agency

* Level of governance

- Parliament
- Authority
- Agency

* Organisation name

255 character(s) maximum

* 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.

- | | | | |
|---|--|-------------------------------------|--|
| <input type="radio"/> Afghanistan | <input type="radio"/> Djibouti | <input type="radio"/> Libya | <input type="radio"/> Saint Martin |
| <input type="radio"/> Åland Islands | <input type="radio"/> Dominica | <input type="radio"/> Liechtenstein | <input type="radio"/> Saint Pierre and Miquelon |
| <input type="radio"/> Albania | <input type="radio"/> Dominican Republic | <input type="radio"/> Lithuania | <input type="radio"/> Saint Vincent and the Grenadines |
| <input type="radio"/> Algeria | <input type="radio"/> Ecuador | <input type="radio"/> Luxembourg | <input type="radio"/> Samoa |
| <input type="radio"/> American Samoa | <input type="radio"/> Egypt | <input type="radio"/> Macau | <input type="radio"/> San Marino |
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| <input type="radio"/> Argentina | <input type="radio"/> Ethiopia | <input type="radio"/> Malta | <input type="radio"/> Sierra Leone |

- Armenia
- Aruba
- Australia
- Austria
- Azerbaijan
- Bahamas
- Bahrain
- Bangladesh
- Barbados
- Belarus
- Belgium
- Belize
- Benin
- Bermuda
- Bhutan
- Bolivia
- Bonaire Saint Eustatius and Saba
- Bosnia and Herzegovina
- Botswana
- Bouvet Island
- Brazil
- British Indian Ocean Territory
- British Virgin Islands
- Falkland Islands
- Faroe Islands
- Fiji
- Finland
- France
- French Guiana
- French Polynesia
- French Southern and Antarctic Lands
- Gabon
- Georgia
- Germany
- Ghana
- Gibraltar
- Greece
- Greenland
- Grenada
- Guadeloupe
- Guam
- Guatemala
- Guernsey
- Guinea
- Guinea-Bissau
- Guyana
- Marshall Islands
- Martinique
- Mauritania
- Mauritius
- Mayotte
- Mexico
- Micronesia
- Moldova
- Monaco
- Mongolia
- Montenegro
- Montserrat
- Morocco
- Mozambique
- Myanmar /Burma
- Namibia
- Nauru
- Nepal
- Netherlands
- New Caledonia
- New Zealand
- Nicaragua
- Niger
- Singapore
- Sint Maarten
- Slovakia
- Slovenia
- Solomon Islands
- Somalia
- South Africa
- South Georgia and the South Sandwich Islands
- South Korea
- South Sudan
- Spain
- Sri Lanka
- Sudan
- Suriname
- Svalbard and Jan Mayen
- Sweden
- Switzerland
- Syria
- Taiwan
- Tajikistan
- Tanzania
- Thailand
- The Gambia

- Brunei
- Bulgaria
- Burkina Faso
- Burundi
- Cambodia
- Cameroon
- Canada
- Cape Verde
- Cayman Islands
- Central African Republic
- Chad
- Chile
- China
- Christmas Island
- Clipperton
- Cocos (Keeling) Islands
- Colombia
- Comoros
- Congo
- Cook Islands
- Costa Rica
- Côte d'Ivoire
- Croatia
- Haiti
- Heard Island and McDonald Islands
- Honduras
- Hong Kong
- Hungary
- Iceland
- India
- Indonesia
- Iran
- Iraq
- Ireland
- Isle of Man
- Israel
- Italy
- Jersey
- Jordan
- Kazakhstan
- Kenya
- Kiribati
- Kosovo
- Kuwait
- Nigeria
- Niue
- Norfolk Island
- Northern Mariana Islands
- North Korea
- North Macedonia
- Norway
- Oman
- Pakistan
- Palau
- Palestine
- Panama
- Papua New Guinea
- Paraguay
- Peru
- Philippines
- Pitcairn Islands
- Poland
- Portugal
- Puerto Rico
- Qatar
- Réunion
- Romania
- Timor-Leste
- Togo
- Tokelau
- Tonga
- Trinidad and Tobago
- Tunisia
- Turkey
- Turkmenistan
- Turks and Caicos Islands
- Tuvalu
- Uganda
- Ukraine
- United Arab Emirates
- United Kingdom
- United States
- United States Minor Outlying Islands
- Uruguay
- US Virgin Islands
- Uzbekistan
- Vanuatu
- Vatican City
- Venezuela
- Vietnam

- Cuba
- Curaçao
- Cyprus
- Czechia
- Democratic Republic of the Congo
- Denmark
- Kyrgyzstan
- Laos
- Latvia
- Lebanon
- Lesotho
- Liberia
- Russia
- Rwanda
- Saint Barthélemy
- Saint Helena Ascension and Tristan da Cunha
- Saint Kitts and Nevis
- Saint Lucia
- Wallis and Futuna
- Western Sahara
- Yemen
- Zambia
- Zimbabwe

* 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

* Please specify your activity field(s) or sector(s)

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

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Anonymous

The type of respondent that you responded to this consultation as, your 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.

Public

Your name, the type of respondent that you responded to this consultation as, your country of origin and your contribution will be published.

* 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

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

The Consultative Committee of the CNMV (Comité Consultivo de la CNMV) by its nature and composition will limit its views regarding this Public Consultation (PC) to those aspects that has to do with securities markets not focusing on other potential retail investments.

Comments are also focused on the areas considered of a major relevance.

In doing that, this answer to the PC contains specific valuations in some cases while in other, no specific valuations are reflected but general comments are made based on the Committee' members experience and considered of the utmost importance.

The Committee believes that the current framework provides benefits regarding investor protection and that, in particular, the MiFID II/MiFIR framework ensures more information and transparency to non-professional clients and a higher level of commitment from the financial institutions.

In the context of the CMU, and of the post-COVID recovery, what is required is a more flexible approach regarding investor protection requirements.

This is particularly relevant taking into consideration the new means for retail investors to be contacted, offered investments and invest, through digital means where a flexible as well as specific approach is required.

All of this, taking into account that a high level of protection is obviously required in any case.

At the same time, it is very important to take also into account that (i) investors should not be disincentivized from investing in corporates via financial markets or in securities markets in general (ii) a major implication of retail investors in securities markets remains being a challenge for the EU, and (ii) the EU needs to develop competitive securities markets and industry.

In this sense the Committee would like to highlight some concerns and priorities:

Legal certainty.

A clear and reliable framework should be implemented so that investors are protected, but also so that financial institutions and other intermediaries can undertake their activity in a safe and trustful way.

Regulatory instability.

While there is still room for reviewing certain aspects with the purpose of promoting the participation of retail investors in financial markets in the EU, any potential amendments should be carefully analyzed in order not to impose new unjustified burdens and relevant costs to the financial industry.

Guaranteeing a level playing field.

Examples of a lack of level playing field could be:

MiFID II is a European directive which is not self-executing and requires implementing measures by the European competent authorities. This margin of discretion has led to different interpretations in each member state, which is an obstacle to a common and effective implementation. In critical aspects of the Directive, ESMA should ensure that common guidelines are issued to avoid different interpretations across member states which imply different level playing fields.

Regarding Inducements regime, the implantation among countries has been really different, even in the concept of inducements, not considered in the same sense by all supervisors as in the details on how to comply with the rules for inducements to be acceptable.

In addition to the above, supervisory convergence must be pursued all across the EU.

Assessing current measures.

Retail investors' protection is based to a certain extent on providing investors with an amount of information whose concepts, content and extension may not comply with the ultimate goal of protecting them. Some investors feel to be over protected, making the whole process complex and potentially refraining them from investing in securities markets.

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

Access by retail investors to investment products, and particularly to financial instruments as defined by MIFID II, is certainly an issue to pay attention to.

The Committee acknowledges that retail investors obviously need a higher level of protection and in this respect measures in this sense are welcome.

Having said that, it would be desirable that protection measures do not have the effect of limiting access by retail investors to investment opportunities beyond necessary.

Examples of this could be that product governance rules may have the unintended consequence of reducing the range of products that are accessible for retail clients. The identification of the target market cannot be granular enough to cover all potential retail investor profile so in case of doubt, issuers or distributors prefer not to assume risk and exclude vast categories within the retail client scope.

Product governance rules have resulted to be unnecessarily burdensome for this type of products considering that non-complex products are generally adequate to all types of clients (notwithstanding the necessity to check appropriateness or suitability, as applicable).

In addition to the above, attention should be paid to the current limitations for EU retail clients to acquire or to be offered products such as ETF produced in third countries so that only solid reasons exist for limiting this instead of relying on the relevant intermediary assessment and client protection rules.

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?

X Yes

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

Please explain your answer to question 1.3:

5000 character(s) maximum

In addition to the specific case mentioned in the answer to the previous question regarding third countries ETF, the interaction of AIFMD with other provisions such as MiFID II, entails that some UCITS-like funds suffer not only from direct consequences resulting from AIFMD direct obligations which, indeed, are not always coincident from those stemming from UCITS Directive, but also from indirect unfair consequences, such as their immediate consideration as complex products under MiFID II.

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 type="radio"/>	<input checked="" type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>
Lack of trust in products?	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input checked="" type="radio"/>	<input type="radio"/>	<input type="radio"/>
High entry or management costs?	<input type="radio"/>	<input type="radio"/>	<input checked="" type="radio"/>	<input 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 type="radio"/>	<input type="radio"/>	<input checked="" 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 checked="" type="radio"/>	<input type="radio"/>	<input type="radio"/>
Uncertainties about expected returns?	<input type="radio"/>	<input type="radio"/>	<input checked="" type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>
Lack of available information about products in other EU Member States?	<input type="radio"/>	<input type="radio"/>	<input checked="" 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 specify what other factor(s) might discourage or prevent retail investors from investing:

5000 character(s) maximum

While some of the items mentioned above may have different relative weight in retail investors limited appetite to invest in securities markets, other elements may influence retail investors when taking investment decisions, like:

- Lack of financial literacy.*
- Lack of supplementary pensions systems, as explained later.*
- Complexity due to the large amount of information provided to retail clients, that requires from them to understand a number of not easy to understand concepts (better execution, conflict of interests, inducements, client assets' protection, costs, risks, etc)*
- Lack of clarity and knowledge as to what point to access for complaining, and in what language, in a cross-border provision of investment services within the EU.*
- Lack of clarity and knowledge as to guarantee cover in case of cross-border services within the EU.*

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 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 type="radio"/>	<input type="radio"/>	<input type="radio"/>
Easy for retail investors to compare with other products	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>
Offered at competitively priced conditions	<input type="radio"/>	<input type="radio"/>	<input 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 type="radio"/>	<input type="radio"/>	<input type="radio"/>

Adapted to modern (e.g. digital) channels	<input type="radio"/>	<input type="radio"/>	<input 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 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

It is difficult to refer to some areas and not to others since this answer to the CP contains comments regarding a majority of them. In some cases proposing steps to be taken while in other cases a limitation of current rules are also proposed.

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.

2. Financial literacy

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 type="radio"/>	<input checked="" 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 type="radio"/>	X <input type="radio"/>	<input type="radio"/>	<input type="radio"/>
Better understand disclosure documents	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	X <input type="radio"/>	<input type="radio"/>	<input type="radio"/>
Better understand professional advice	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	X <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"/>	X <input type="radio"/>	<input type="radio"/>	<input type="radio"/>
Follow a long-term investment strategy	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	X <input 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

The Committee consider that the following are measures to increase financial literacy:

- (i) Implementation of financial education programmes at early ages.*
- (ii) Development of financial training channels for adult citizens.*
- (iii) Promotion and acknowledgement of the effort made by public and private entities, including supervisors and financial entities, to increase financial literacy.*
- (iv) Development of employee share ownership schemes.*
- (v) Development of supplementary pension systems (occupational and individual systems), preferably with autoenrollment, “adscription by default” and or/other mechanisms to stimulate their adscription, not only to improve future income in retirement, but also to familiarize citizens with key financial concepts (performance, cost, inflation, compound interest) and incorporate long-term financial planning into their routines.*

It’s worth noting the clear link between right incentives to stimulate adscription to supplementary pension (UK has achieved with autoenrollment mechanisms to add an additional nine million individuals to workplace saving in the past five years) and the consequent increase on financial literacy, as shown by OECD (G20/OECD INFE Report on adult financial literacy: “on average, people who held a savings product had higher levels of financial literacy than those who didn’t”).

Similarly, information sent to citizens about their expected pension should be an efficient tool to increase financial education. Only 10 countries in Europe send/put at a disposal this information to future retirees.

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

Open finance approach in the ambit of securities markets may have the benefits of disruption, innovation, competition, while conserving customer centricity.

Clearly data – and fair rules around its sharing and usage – is the heart of the matter for digitalisation. Europe has already showed in the payment space its ability to lead the way by creating the right conditions for data to be shared to ensure consumers get the best outcome & competition develop in payments. This EU regulatory framework (PSD2) was a disruptive regulation. It showed how facilitating safe, convenient and ongoing access to data could trigger an enormous range of innovation in the sector

When it comes to investment services, more data can help improving services quality which rely on the quality and amount of information available to best advice customers.

Increasing competition will also be an effect of open finance. It is important, though, to ensure that this increased competition does not create an unlevel playing field and is at the service of disruptive innovation and not just cost-focused.

When importing the payment services experience to investment services, attention should be paid to the specificities of the different investment services and the role that specific persons or entities qualification can play for an investor.

Increasing the quality of the service thus, should not be based only in cost since other elements not always clear to retail clients' eyes should also be taken into account to identify an increase in service quality.

Regarding risks, in addition to what has been said regarding the specificities of the investment services quality assessment, the Committee identifies the risk for investors of data privacy when third party providers cannot offer the same level of security and privacy (personal data may be misused or mishandled), higher cyber-fraud (theft of personal data), access to riskier products without the correct information and more difficulty for customers to access correct tailored advice.

But the Committee considers that from a more general perspective, missing this opportunity may also be considered as a risk, although we must take into consideration that open finance could lead to the creation of an unlevel playing field if it is not properly designed. In the case of PSD2, the opportunity was not taken to generate high disruptive innovation because only payments data held by some of the members of the industry (banks) were targeted, and the PSD2 opened the access to a very limited set of data, just from banks, and not from other players whose data would be relevant to improve financial services.

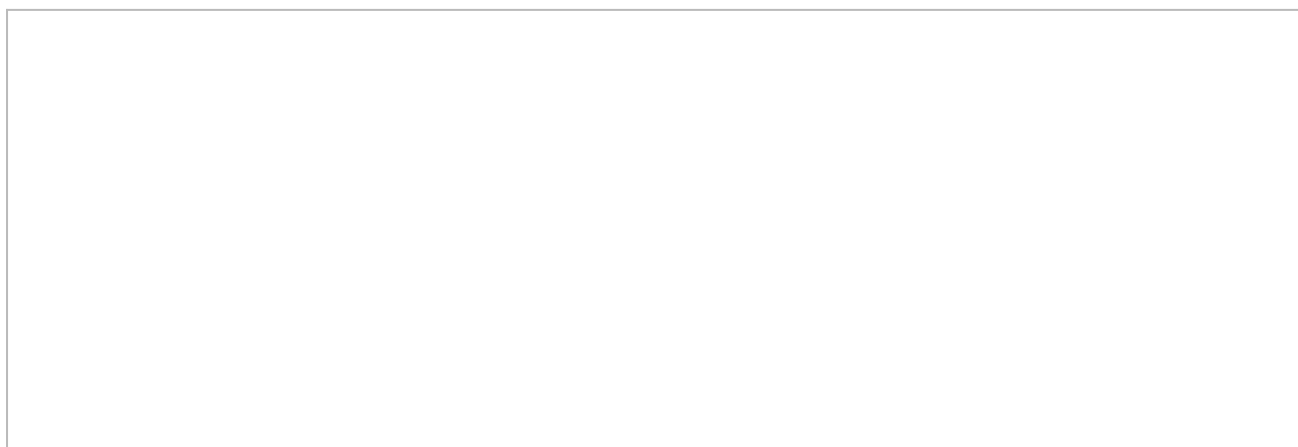
As regards competition, it is important that data access be opened to all market participants. In addition, much of EU's citizens and businesses data is in the hands of few companies. Major Bigtech players today

hold extremely relevant pools of data which have been generated by EU citizens & businesses

These players have shown us the strength and opportunities that derive from combining a wide range of data, arising from different contexts. They are also providing financial services now, being directly (as regulated entities) or indirectly (as technology providers or by orchestrating financial ecosystems), improving their services by leveraging on this variety of data that they have access to.

Open Finance needs to expand the obligation to provide access to data not only from regulated financial service providers but also from other players which hold the uncorrelated data that can trigger disruptive innovation.

While empowering users and putting them in the centre, opening cross-sectorial data would also contribute to developing a level playing field in all sectors, even in the financial one, which will be beneficial to businesses across the market. A data agile economy and the benefits that can emerge from it will only be achieved if a level playing is guaranteed for all actors.



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

Technology is already generating innovation. Financial services are not an exception. Clear cases are being built around artificial intelligence (i.e. analysing customer satisfaction), blockchain (ensuring more robust settlement procedures), biometry (to facilitate customer identification), virtual assistants, and digital identity.

Financial service providers are using these technologies for both improving the services to customers, but also increase the soundness of core functions such as risk management.

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

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.

In conclusion, it would promote the digitalization of the financial sector and will also help regulate all kinds of documents related to the information received by investors. When all of these documents are machine-readable, they will also be comparable each other regardless of which EU country they are located.

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

Digitalization allows customers to have access to global markets, global products, global information and consequently different marketing and advertising rules for investment products are an obstacle for retail investors.

Regulation needs to be put in place in this sense, not necessarily replicating the rules for marketing of investment products, but ensuring that the customer can properly understand the services. Any provider in the financial investment value chain that faces consumers should be bounded by consumer protection rules.

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?

X Yes

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

Please explain your answer to question 3.5:

5000 character(s) maximum

The Committee considers that not only regulation is needed for some players that are now out of the scope, but supervision should be consistent and enforce the rules in place for all current regulated and future regulated players.

This becomes even more relevant where the sources of information and the contracting point for retail investors are increasingly based in digital means where rules on publicity and other retail investors' protection rules need to be adapted to be efficient.

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

Digital dynamics have given entities the capacity to treat customers in a more personalised manner. Financial service providers should have the capacity to adapt to customer expectations in a more flexible manner across Europe.

The digital single market would very much benefit from this, and highest efficiencies can be derived from the possibility of marketing products and services without necessarily establishing the differences per country or per product where this is not clearly justified, but per customer profile.

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

X 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.

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

X 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?

X Yes

No

Don't know / no opinion / not applicable

Please explain your answer to question 3.9:

5000 character(s) maximum

There is a need to ensure that the platforms controlling the ecosystem also have the right regulation in place, including publicity and measures to make it reliable and trustable, to ensure incentives are aligned to protect retail investors.

There are very well known cases such as the Reddit platform where some groups of people could use it to move markets for their own interest. The EU should take the lead on these issues to tackle with all the potential misleading information or even market abuse implications when using this kind of social media platforms.

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.

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







The search should show the results that come from the filters or options selected by the investor and/or from the proposal made by the advisor as a result of the suitability test.

4. Disclosure requirements

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 type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>
The costs associated with the product	<input type="radio"/>	<input 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 type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>

The risks associated with the product						
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Please explain your answer to question 4.1:

5000 character(s) maximum

The implementation of MIFID/MIFIR has meant more information for investors, it implies an increase in precontractual, contractual and post-contractual information.

The information provided to retail clients remains in some cases, complicated, redundant and of doubtful usefulness.

A retail investor receives a significant number of documents and information, contracts, tests, policies, etc, including new concepts like different type of risks, inducements, conflict of interest, better execution, client assets' protection, etc, and he/she is required to handwrite and execute a number of documents whose comprehension requires time and dedication by the investor, and it is not clear that all this information proves to be useful for the client and for client protection purposes.

Research should be made among EU citizens and potential retail investors to understand which aspects they really value among all of the current measures to protect them.

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 checked="" 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 checked="" type="radio"/>	<input type="radio"/>	<input type="radio"/>
Information about product performance	<input type="radio"/>	<input checked="" 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 checked="" 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 checked="" 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 checked="" type="radio"/>	<input type="radio"/>	<input type="radio"/>

Information about product performance	<input type="radio"/>	X <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"/>	X <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

As regards PRIIPS as a whole, while it is not applicable to UCITS and AIF due to the exemption provided in Article 32 of PRIIPS regulation, and all Spanish UCITS and AIF are temporary exempted from the obligation to provide a PRIIPS KID, it can be said that as a matter of fact, UCITS KID has proven to be an effective informative pre-contractual tool that has adequately helped investor to take well-informed decisions.

However, this success is not fully applicable to PRIIPs KID, in respect of which a number of issues has been identified in this answer to the PC.

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.

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

However, the use of clear language, while being necessary, will not impede that concepts are to some extent complex and that getting a retail investor understanding them, will require time and dedication on his part as well as a level of literacy that should be increased within the EU.

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

KID are delivered to the client at a very early stage. The aim is that the client will be able to understand the product in an early stage.

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

Comparing investment products were the aim of the KID of PRIIPs. However, under the scope of PRIIPs are different products. Many of them are quite different in terms of structure, and this means that when costs, returns, and other characteristics (such as for example guaranties) are put together, it is still not possible to fully compare them.

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

The comparability should be as high as possible, especially when it comes to substitute financial instruments from the investor's perspective, although admitting that, as expressed above, a total comparison is sometimes not feasible, as there are limitations derived from the very nature of the instruments.

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

European regulatory framework provides for three different methodologies to calculate the summary risk indicator (SRI) of investment products that can take similar form.

These methods take into consideration different rules, apply different approaches, and produce different outputs. For example, SRI adopts a value ranging from 1 to 7 under UCITS methodology, while in PRIIPS ranges from 1 to 6 and in PEPP from 1 to 4, when all these products can be built upon a UCITS vehicle.

In addition, Risk indicator in PRIIPs is calculated with looking forward perspective, and it is linked to the Recommended Holding Period of each product, while in other products like Fund Certificates and Pension Funds regulation, risk indicator is calculated with past performance.

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

Please explain your answer to question 4.7 d), specifying what those elements are and indicating which information documents are concerned:

5000 character(s) maximum

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

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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 No applicable
Product objectives /main product features	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>
Costs	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>
Past performance	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>
Guaranteed returns	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>
Capital protection	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>
Forward-looking performance expectation	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>
Risk	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>
Ease with which the product can be converted into cash	<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"/>

Please specify to what other type(s) of product information you refer in 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.

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

Generally, with regards to investor protection rules, the perception is that transparency has increased. However, final investors are yet to take advantage of the transparency framework requirements such as information on costs and charges.

Greater transparency in terms of information regarding costs has been provided by the MiFID II/MiFIR framework in the context of complex financial instruments produced and marketed in a standard manner.

However, more information may also contribute to confusion of clients. Therefore, while over informative rules increase the distribution costs, they do not necessarily strengthen the level of protection for non-professional investors.

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.

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

Given the characteristics of some non-complex financial instruments, (ordinary shares, investment funds (UCITS) or bonds traded in secondary markets) Product Governance must be applied in a more proportionate way.

There is no need to include negative target market for ordinary shares that are not 'manufactured' by the issuer and are not issued for a designated target market. As a base case, ordinary shares are deemed eligible for all distribution channels.

This is in line with ESMA statement on its Final Report on MiFID II (2014/1569) "For simpler, more mainstream investments, such as ordinary shares, it is likely that the target market will be identified with less detail. In many cases, it is understood that such products can be considered to be compatible with the mass retail market in addition to sales to investors who meet the criteria of professional clients and eligible counterparties".

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

Following the initiatives on environmental responsibility, it would be a good time to introduce measures intended to reduce paper consumption. Thus, for most clients, email or other durable mediums are the primary medium for regular communication in line with the sustainability objectives of the European Union.

In addition:

- The reduction of paper-based information would result in cost-savings for investment firms.*
- It would grant access to information even in extraordinary situations (such as the coronavirus pandemic).*
- It would grant access to the most updated information on an ongoing basis.*
- It is important that local supervisors admit that proof of delivery can be provided in this way.*

We propose therefore that specific consent for the delivery of the information in a durable medium other than paper should not be a requirement. To summarize, we believe paper should not be the default option and provided only upon specific request by clients.

In addition, the recent MIFID Quick fixes establishes electronic format as default option, but also allows investors to request paper. This approach should be extended to all disclosure regimes, including those established at product level, as UCITS and FIA ones.

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

It is very important that retail investors receive information in a language that they can understand. It is usual that customers be reluctant to contract any product in other Member State due to the lack of knowledge of the language of this country.

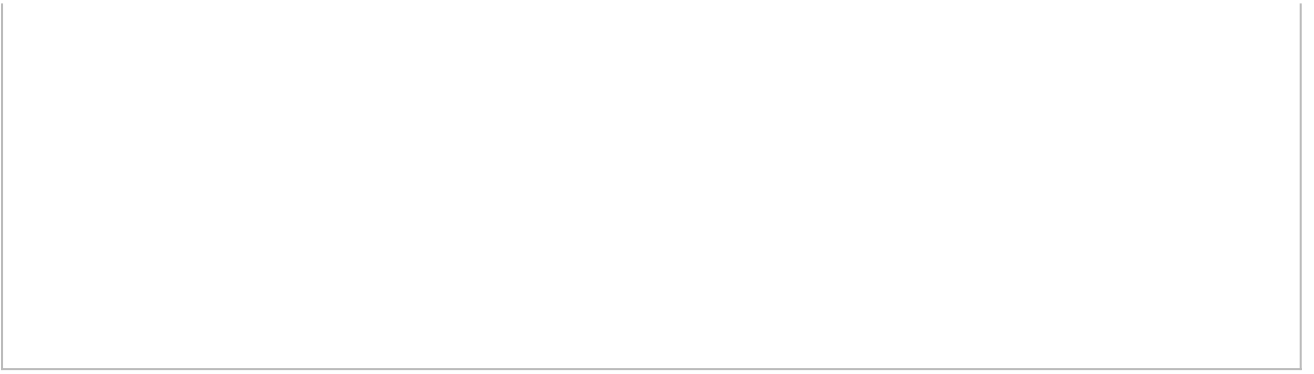
Question 4.14 How can access, readability and intelligibility of pre-

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.



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 checked="" type="radio"/>	<input 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 type="radio"/>	<input type="radio"/>

<p>Format of the information is adapted to use on different kinds of device (for example through use of layering)?</p>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input checked="" type="radio"/>	<input type="radio"/>	<input type="radio"/>
<p>Appropriately labeled and relevant hyperlinks are used to provide access to supplementary information?</p>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input checked="" type="radio"/>	<input type="radio"/>	<input type="radio"/>
<p>Use of hyperlinks is limited (e.g. one click only – no cascade of links)?</p>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input checked="" type="radio"/>	<input type="radio"/>	<input type="radio"/>
<p>Contracts cannot be concluded until the consumer has</p>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>

scrolled to the end of the document?						
Other?	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>

Please specify to what other important element you refer in 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.

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

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

Language used in PRIIPS is not necessary friendly to retail clients.

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

As explained above, the fact that under the scope of PRIIPs are different kind of products make to some extent difficult to compare different products.

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

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

Please explain your answer to question 5.1 c):

5000 character(s) maximum

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:

- X 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.

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 specify to what other improvement(s) you refer in 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.

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

The PRIIPs rules for KID should be more flexible to allow the calibration between the mandatory information to be provided (minimum level of protection) and the possibility of providing further information upon investor request and considering specific risks and complexity levels of the financial instrument sold and the nature of the investment service provided.

In addition, information on past performance and future scenarios should not be considered essential information.

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?

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

Please explain your answer to question 5.4:

5000 character(s) maximum

There are some products manufactured and distributed in Spain that fall within the scope of PRIIPS Regulation, but are hard to fit in the current PRIIPS categories. This is the case of annuities, which are insurance products where the investment guarantees a rent/periodic income for the insured customer. Inclusion of these products as well as other, such as OTC derivatives, in the PRIIPS regulation should be reviewed.

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 specify to what other factor(s) you refer in 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.

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.

Please explain your answer to question 5.10 a):

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.

Please explain your answer to question 5.10 b):

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

It must be taken into account that access to past versions of the PRIIPS KID can lead to retail investors to confusion, since Costs and Forward-looking performance depend on the market conditions at the time the documents are published, so these conditions change every day.

Therefore, retail investors must not rely on old estimations of Forward- looking performance or old risk's assessments.

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?

xYes

- 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

Frequency of the update of the PRIIPS KID will depend on the kind of product.

6. Suitability and appropriateness assessment

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
- xAgree
- 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.

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

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

Please explain your answer to question 6.2. Please explain how these problems might they be addressed:

5000 character(s) maximum

As stated before, the information overload may work as a source of confusion especially for retail investors.

Thus, reducing the amount of compulsory information to all clients, including suitability statements, would be helpful.

Regarding product governance and investment advice, the suitability assessment includes the analysis of the financial situation, objectives and needs of the clients in order to assess if the investment is suitable for the client. Generally speaking, the compatibility with the target market does not give additional benefits to the client.

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.

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)?

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

Please explain your answer to question 6.5:

5000 character(s) maximum

In some cases it is difficult to decide to which persons the information on their knowledge and experience should be collected. In this cases the solution that it is the information on the person with the least knowledge and experience the one to take into account, is not realistic in some cases.

This is the case, for instance, where a transaction is made on behalf of a legal entity or group, such as an SPV with no previous experience, but managed but very experienced people.

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

- XYes
- 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.

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

- XYes
- No
- Don't know / no opinion / not applicable

Please explain your answer to question 6.7:

5000 character(s) maximum

In certain cases, national authorities have already developed additional investor protection requirements in accordance with article 24.12 of MIFID 2 with regards to the issuance of certain warnings to clients. In

particular, in Spain, the national competent authority has required investment firms to make certain warnings and to obtain handwritten representations from their retail clients in respect of complex financial instruments when the result of the appropriateness test is negative or when the client has not provided the necessary information so that the investment firm can complete such appropriateness assessment.

While the implementation of these measures would afford the retail client with complete protection, it would be desirable that a level playing field across the EU be achieved in this respect.

Consequently, supervisory convergence must be pursued all across the EU.

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

The Committee considers that an appropriateness test is not needed in such cases, and in general we suggest narrowing down the scope of target market requirements to exclude simple products like shares and bonds all together, aligning the scope with PRIIPs.

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

The Committee considers that further clarification and modifications can cover the following issues:

- How should distributors comply with MiFID II requirements when offering or recommending financial instruments manufactured by entities not subject to MiFID II, including third countries' manufacturers.

-Distributors have the direct knowledge of their clients and consequently they should be allowed to apply their own product governance rules whose results may not coincide, in particular cases, with target market limitations prescribed by the manufacturer.

- Differences between primary and secondary markets, should imply Product Governance requirements such as the identification of a target market do not apply to primary markets. Different regulations search different objectives: identification of the target market in prospectus is aimed at raising funds from the public for newly created securities while MiFID II definition of target market is for marketing securities on the secondary market (i.e. to final customers).

- Simplify regime for plain vanilla products: in some cases manufactures of such products are not regulated entities and thus, they are not in the scope under Product Governance rules. This implies that it is impossible in many cases for the distributor to have access to the information needed.

- Target market requirements should not apply to non complex products or should be for informative purposes only. For non complex instruments for which institutions are not obliged to assess the experience and knowledge of the client, it is not coherent that the institution must ensure the compatibility with the target market.

- Derivatives concluded for hedging purposes: In the case of derivatives that are concluded for hedging purposes, it does not make sense to consider the product on an independent basis as particular circumstances surrounding the client are of special relevance. The product risk considered individually is not relevant; what is relevant is the fact that the client is exposed to a particular risk which is precisely the one intended to be mitigated.

In addition, regarding governance requirements under Article 16(3) MiFID, we consider that they should be confined to complex products, letting out of the scope for instance, most UCITS funds.

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 specify what problems you identify and 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.

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.

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.

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.

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 type="radio"/>	<input type="radio"/>
Adjusting the definition of professional investors on request	x		<input type="radio"/>
No changes to client categorisation (other measures, i.e. increase product access and lower information requirements for all retail investors)	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>

Please explain your answer to question 7.1:

5000 character(s) maximum

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 specify to what other criteria to measure a client's experience you refer in 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.

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 specify to what other criteria to measure a client's capacity to bear loss you refer in 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.

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 specify to what other criteria to measure a client's financial knowledge you refer in 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.

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 specify to what other criteria to assess a client's ability to make informed investment decisions you refer in 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.

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 specify to what other criteria to allow companies to qualify as professional clients you refer in your answer to question 7.3:

5000 character(s) maximum

Please explain your answer to question 7.3:

5000 character(s) maximum

Currently the definition of professional client is too tight and most clients are classified as retails although this category comprises a great variety of client's profiles. This matter was already identified as an area of review in the context of the MIFID 2/MIFIR review.

In this regard, regulation can be overly protective for certain retail clients who have sufficient experience with financial markets. Thus, there can be barriers to sophisticated retail clients to access certain financial instruments as they do not fulfill the requirements to become elective professionals.

Notwithstanding the above, the creation of a new category of semi-professional clients, in addition to the possible impact on institutions, could mean greater complexity in the legal regime applicable (different conduct of business rules would apply, investor protection, etc.) to the investor, which is already complex, and this may mean less legal certainty for the investor.

The creation of a new retail classification, although possible, may be challenging for investment firms from an operational perspective, so any new category should not result in the reclassification of existing clients. If this is the option decided, grandfathering should be provided in respect to existing categories and, in particular, the elective professional status should be maintained; this new category should be voluntary, so that entities could have the possibility to activate it or not depending on their specific client situation.

The Committee encourages this problem to be addressed, and preferably through the adaptation of the rules which a professional client at request must comply with (section II.1 of Annex 2 of MIFID 2).

This adaptation would imply:

- 1. A valid assessment on the client experience and knowledge for making the investment decision and to correctly assess the risks involved in the view of the nature of the transactions or services to be provided.*
- 2. The conditions for such assessment should be based on the following:*
 - a) Carried out transactions, in significant size: the threshold must be adapted for each class of financial instrument, or*

- b) Carried out transactions at an average frequency depending on the type of financial instrument;*
- c) The size of the client's financial instrument portfolio, defined as including cash deposits and financial instruments exceeds a certain threshold depending of the type of financial instrument or service provided, but taking into account that the amount of assets does not correlate with the experience and knowledge or professionalism of the client. The amount often excludes people who have the appropriate knowledge and experience and an interest in more investment opportunities.*

8. Inducements and quality of advice

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"/>

<p>Obliging distributors to assess the investment products they recommend against similar products available on the market in terms of overall cost and expected performance</p>	<input type="radio"/>	<input type="radio"/>	<input checked="" type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>
<p>Introducing specific record-keeping and reporting requirements for distributors of retail investment products to provide a breakdown of products distributed,</p>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input checked="" type="radio"/>	<input type="radio"/>	<input type="radio"/>

<p>thus allowing for supervisory scrutiny and better enforcement of the existing rules on inducements</p>						
<p>Introducing a ban on all forms of inducements for every retail investment product across the Union</p>	<p>X</p>	<p><input type="radio"/></p>	<p><input type="radio"/></p>	<p><input type="radio"/></p>	<p><input type="radio"/></p>	<p><input type="radio"/></p>

Please explain your answer to question 8.1:

5000 character(s) maximum

The current inducements regime is based on the idea that irrespective of whether or not there are an actual conflict of interest between the entity and the clients, inducements are subject to the same rules.

Interests of the client and of the entity that converge may well be aligned or in conflict. But the current inducement regime does not differentiate among these two potential situations and extracts inducements from the general conflict of interests' management regulation. This could be revised, or at least be taken into account when defining the inducements regimen as stated below.

With the current situation, one of the most important issues that the industry is facing is the different scope for inducements concept understood by different NCAs. Especially relevant is the consideration as inducements for placing investment service fees.

Although firms should assess all payments or benefits received against the inducement rules, in the specific context of a firm providing placing services to an issuer, and also distributing new financial instruments to investment clients, it should be agreed that the fees received by the firm from the issuer client directly relate to the provision of a MiFID investment service. These payments would constitute a client fee or payment. They should not be considered as a third-party payment or benefit under the inducements rules in Article 24(7), (8) or (9) of MiFID II.

This approach is fully in line with MiFID II rules, as it must be kept in mind that inducements are forbidden in portfolio management and independent advice and it should be hard to understand that MiFID II is preventing all these clients to benefit from the primary market access.

This is the approach taken by some regulators, but not by others. Industry needs legal certainty so it must be stated clearly at European level, in order to promote common approach amongst the EU.

Regarding these payments, conflicts of interest rules will apply, including the need to identify and manage potential conflicts between the interests of different groups of clients or different activities that the firm carries out. Moreover, MiFID II has extended these rules as regards to the identification, management, disclosure of conflicts of interest.

Specifically, art 38 of the Delegated Regulation states that investment firms providing execution and research services as well as carrying out underwriting and placing activities shall ensure adequate controls are in place to manage any potential conflicts of interest between these activities and between their different clients receiving those services.

As already explained, due to the lack of uniform criteria among EU supervisors about whether or not placement fees are to be considered inducements, some entities are excluding products subject to those activities from investor-clients portfolio.

Additionally, we are concerned about the fact that there is no common approach on the concept of "inducement" across the EU regarding the establishment of a closed number of cases as it has been the

case in some countries, while in others are just examples that entities can choose as a safe harbor. In no case should a closed number of cases be established in which the client is considered to be provided with added value in the provision of the service. Where appropriate, institutions should be free to establish the value-added model they deem appropriate for the customer in accordance with the configuration of the services they provide.

Another relevant issue is that the PC contains some references that should be explained and accompanied by empirical evidence. For example, according to its introduction (p. 3), the consultation would come to understand “how to ensure access to fair advice in light of current inducement practices”.

Notwithstanding, this statement is made without an explanation on what these practices are and why they prevent retail investors from fair advice.

Likewise, on the same topic, the PC states that “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” (p. 33).

These concerns, coming from Mifid I framework, are brought back again without additional assessment and not taking into consideration the stringent obligations put in place under Mifid II, which explicitly limited the scope where inducements are allowed to their contribution to enhance the quality of the service provided to the client and to the fundamental condition of not impairment of their duty to act in the client’s best interests.

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

The Committee considers that there are some potential consequences in the case of a total ban of inducements that cannot be considered positive, such as:

- **Advice gap for retail investors**, both from the supply side (due to the impossibility to provide independent advice below certain level threshold, which in practice leaves out most of retailers) and from the demand side (due to investor’s unwillingness to explicit payments for advice).

This means a real danger to expel some clients (those with lower capacity to invest) from the advisory services and/or the added value tools and services, with the subsequent impact on their investment decisions (or the lack of them, of the essence as further explained below).

This is even more important when considering some of the current objectives of the European Commission under the Capital Markets Union for people and business-new action plan, shared

with the supervisory authorities.

- **Reduction of competition due to increase in entry barriers for the suppliers** of financial products, as well as difficulty to efficiently incentivise existing distributors to promote the products of the entrants.
- **Detrimental impact on level playing field**, due to different rules across sectors.
- **A strong impact on many firm's business models** and the distribution of retail financial instruments across the European Union without a clear benefit on the clients' side.

As a conclusion, regulation should not prevent the client from having the choice between fee-based model and rebate-based model. Each model is appropriate for different kind of clients and none of them should be removed.

In particular, the current model in Spain has shown that:

- a) The lack of investor's preference for explicit payment models is still a reality, as highlighted by the fact that some distributors who started their adaptation to MiFID II rules through an explicit payment model had to refocus their strategy towards an inducements-based model, due to investor's reluctance to explicit payments.
- b) Being the current a highly "inducement-based" distribution model, the enhancement on the quality accomplished for the adaptation to MiFID II by Spanish distributors, together with the efforts undertaken by the asset management industry, has allowed:
 - i. Reduction on management fees (weighted average management fee fell from 0.91% in dec-2017 to 0.83% in dec-2020, according to CNMV data).
 - ii. Important increase in open architecture.
 - A current product catalogue of more than 90% of third-party products. An analysis of the entities' product catalogue made available to the client through at least one channel shows that more than 90% of the product offer corresponds to manufacturers not linked to the distributor (i.e. third-party products).
 - More than 25% of the volumes of investment funds effectively distributed are third-party funds (source: Inverco statistics).

Likewise, the last mystery shopping exercise carried out by the CNMV (2020) shows that at least one third-party product was offered to the client in more than 90% of the visits made, compared to the same result happening in only a 10% of the visits made, according to the 2017 data.

- iii. **Extraordinary increase in financial advice** (mostly non-independent) for retail investors (more than 2,5 million of advised investors in dec-2020 versus 1 million in dec-2017).
- iv. **Widespread access of investment products to retail investor** (more than 8 million of UCITS unit-holders, 80% of them with an average portfolio under 6.000 euros).

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.

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

MiFID II and the models allowed under such regulation have contributed to an important increase of open architecture which has provided all kind of clients to a very wide range of products and manufacturers, allowing all type of clients to benefit from more investment opportunities.

MiFID II model has implied an important improvement of the quality of services provided to investors with lowest asset, clients that in models with an inducement ban have been expelled from the service (see UK experience). In this regards, MiFID II requirements led to more protection for the retail client, with a shift from execution only business to non-independent advice model and/or the provision of added value tools and services and further access to third party products that with an inducement ban could be reversed.

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.

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 type="radio"/>
In the case of insurance-based investment products distributed under the IDD framework?	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>
In the case of inducements paid to providers of online platforms/comparison websites?	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>

Please explain your answer to question 8.3:

5000 character(s) maximum

Conflicts of interest are often brought to the table to question the Rebate-based models, without considering that the legislation and supervisory criteria provide for a number of provisions to prevent and manage such conflicts and that such measures have been successful so far.

It should also be taken into account that Fee-based models are not exempt from such conflicts, which have also been managed successfully.

Rebate-based models have never been so transparent and controlled, to a level not required for other industries and even for other products similar to MiFID financial instruments (as further explained above when talking about the level playing field)

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.

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
- xIntroducing 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

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?

- X 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

It is welcomed that the European Commission and ESMA intend to assess the compatibility of PFOF practices with MiFID II/MiFIR provisions.

Payment for order flow (PFOF) is a common practice in Europe. While some platforms may offer to execute trades without charging commissions, they do not always provide the best execution and can be more burdensome to retail investors in terms of gap between supply and demand, beyond the execution price of their order.

In addition, a PFOF scheme represents an incentive for the broker to direct orders to the bidder offering the highest payout rather than to the venue offering the best execution, which can represent a price deterioration and even limit the choice of execution locations for retail investors to only those offering PFOF.

According to Article 24 of MiFID II, inducements must be justified by a higher level of service. They must not benefit the company without a tangible benefit to the customer; and for continuous inducements, there must be continuous benefits for the customer. In addition, companies must disclose and keep records of such inducements.

If ESMA and the competent national authorities conclude that MiFID II requirements for better implementation and conflicts of interest are not systematically met, they may wish to consider recommending a change to the level 1 text as part of the forthcoming review of MiFID II/MiFIR to limit or ban PFOF.

In the meantime, ESMA could consider using its enhanced supervisory convergence tools. The exchange of supervisory practices between national competent authorities would help to ensure a common understanding of PFOF practices and improve investor protection.

Where necessary, in accordance with existing legislation, competent national authorities have the discretion to prohibit PFOF when they consider that MiFID II rules on conflict of interest and inducements are not being complied with. In fact, this has already been done in the UK, when it was still part of the EU, and in the Netherlands.

Please explain your answer to question 8.6:

5000 character(s) maximum

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

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

Please explain your answer to question 8.7:

5000 character(s) maximum

There are no evidences that current situation has not proved to be efficient for retail clients purposes. Any amendment to current situation should be based in solid empiric evidences.

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

As regards the possibility to establish a voluntary pan EU label for financial advisor, like a certificate that proves the level of knowledge and qualifications, the Committee points out that in some jurisdictions such as Spain, there are already national level 3 regulations providing details on the accreditation of knowledge and competences.

It would be necessary, in the case of progressing with this possibility to provide for the automatic recognition of the existing national qualifications and titles.

If you would see merit in developing that voluntary pan-EU label, what would you consider the essential characteristics of such a label and how should it be similar to or different from those that already exist in the market?

5000 character(s) maximum

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

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

In relation to robo advisors, attention must be paid to transparency, terms of buying process, reporting, communications, etc, due the fact that relationship with clientes is developed with less human contact and on an authomatic basis.

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 specify to what other reason(s) you refer in 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.

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

If such unnecessary barriers do exist, which measures could be taken to address them?

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 8.11:

5000 character(s) maximum

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

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?

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

Please explain your answer to question 9.1:

5000 character(s) maximum

Retail clients' access to simple investment products would be facilitated with amendments to the

MiFID/MiFIR requirements.

In particular, product governance rules should be simplified for non-complex products and should not apply in respect of products provided to only eligible counterparties and professional clients.

Given the characteristics of some non-complex financial instruments, (ordinary shares, investment funds (UCITS) or bonds traded in secondary markets) Product Governance must be applied in a more proportionate way.

Language used in regulation could also be more friendly for retail investors, facilitating clear and friendly explanations to them.

In addition, it should be convenient avoiding categorization of products based on bias and instead provide enough quantitative information so that the investor can make the best investment decisions, taking into account not only the characteristics of the product, but also the service received and the way in which it is remunerated.

An example contrary to the above would be the establishment of automatic links between cost efficient products and specific categories, such as UCITS or certain ETFs.

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.

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.

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.

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.

f) Should they have another aim?

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

Please specify to what other aim you refer and explain your answer to question 9.2 f):

5000 character(s) maximum

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

10. Redress

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.

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.

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.

11. Product intervention powers

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?

- X 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.

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.

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.

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 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 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 type="radio"/>	<input type="radio"/>	<input type="radio"/>
Lack of financial products that would meet sustainability preferences	<input type="radio"/>	<input type="radio"/>	<input 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 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 type="radio"/>	<input type="radio"/>
Other	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input checked="" type="radio"/>	<input type="radio"/>	<input type="radio"/>

Please specify to what other factor(s) you refer in your answer to question

12.3:

5000 character(s) maximum

Sustainable investment main hurdles for retail investors are not only the lack of products or product information but more also the absence of homogeneity in the concept of sustainability across entities and investment solutions (to be partially solved by SFDR).

Additionally, most investors continue to think sustainability and profitability is a trade off instead of a different investment option with probably a better risk profile including non financial objectives aligned with some specific values.

In any event, investors are increasingly interested in ESG investments, and information regarding financial products should then be disclosed to consumers in a clear, standardized, and accessible manner to non-expert consumers.

When it comes to ESG investments, the regulatory framework is becoming very complex and, even acknowledging the major efforts made by the ESAs to interpret and complete certain vague aspects of the level I regulations, the new ESG draft templates incorporated in the final report adopted by the ESAs regarding SFDR add complexity in terms of distinction of concepts and understandability by retailers. In addition to the complexity, these templates are too lengthy.

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?

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

Please explain your answer to question 12.4:

5000 character(s) maximum

Regarding sustainable investment, sustainability issues should not be included until there are consolidated regulations in place; or, where appropriate, they should be considered as good practice without any requirements that could clash with ongoing developments in this area.

Sustainability factors would be more related with the investment objectives of a client and, therefore, would be more appropriately considered in the context of the suitability assessment.

Standardization of metrics and concepts should be the first step towards a clear advisory/distribution services for financial institutions and clients knowledge.

The Committee welcome all EU efforts towards regulation development on this field, but it also estimates that regarding the importance of the concepts included on these developments discussing these issues in depth when considering clients' investments will still take some time.

So focus can currently stands on specializing bankers and advisors on sustainability and ESG concepts to start establishing learning conversations with our clients.

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

Considering that basic ESG concepts and sustainability derived risks would be considered for most of investment options, data, research and guidance will be increasingly needed and demanded from the different investment industry stakeholders.

Thus, in order to encourage more sustainable investments, it is fundamental that investment research considers ESG factors of the issuers and financial instruments covered by that research. Other industries, such as the asset management industry, should be able to rely on this information.

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

The Committee considers that the following are other items to pay attention to when defining a comprehensive retail client protection policy for the EU:

- *Cross border provision of services by third countries' entities. Where third countries' entities provide services to retail clients in the EU it is important that all the relevant and applicable EU rules are applied and properly supervised. This would allow not only a level playing field for the EU industry, but will also reinforce retail clients' protection.*
- *Cross-border provision of services among the EU. Two elements are relevant here: (i) that supervision by the Home Member State NCA be effective regarding the provision of services to retail clients in other Member States and (ii) that the compensation schemes cover be clearly regulated and established in these cases.*
- *Retail clients need clear indications as to the legal regime and the cover when they invest in some new products, such as some crypto assets and in the future, other potential new products. During the time that MiCA be finally passed and considering that other crypto assets will fall outside the MiCA scope, the mere fact that retail clients are acquiring these kinds of assets through regulated entities does not guarantee that they are covered by a number of protective rules such as conduct of business rules and compensation schemes rules. The fact that when a retail client decides to move from one investment to another within the same entity he/she is losing protection is something very relevant.*

Retail clients may well not be aware of this, and additional efforts should be made to have clear rules in this respect, and to get retail clients adequately informed so that they can take investment decisions with all the relevant information at hand.

Additional information

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

