

Public consultation on a retail investment strategy for Europe

Fields marked with * are mandatory.

Introduction

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

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1. Background for this consultation

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

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

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

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

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

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

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

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

Responding to this consultation and follow up

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

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

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

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

Nikolaus

* Surname

Sutter

* Email (this won't be published)

nikolaus.sutter@deutsche-boerse.com

* Organisation name

255 character(s) maximum

Deutsche Börse Group (DBG)

* 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.

20884001341-42

* Country of origin

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

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- Belize
- Benin
- Bermuda
- Bhutan

- Bolivia
- Bonaire Saint Eustatius and Saba
- Bosnia and Herzegovina
- Botswana
- Bouvet Island
- Brazil
- British Indian Ocean Territory
- British Virgin Islands
- Brunei
- Bulgaria

- Burkina Faso
- Burundi

- Cambodia

- Cameroon
- Canada
- Cape Verde
- Cayman Islands

- Central African Republic
- Chad
- Chile
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- Ghana
- Gibraltar
- Greece
- Greenland

- Grenada
- Guadeloupe

- Guam

- Guatemala
- Guernsey
- Guinea
- Guinea-Bissau

- Guyana

- Haiti
- Heard Island and McDonald Islands
- Honduras
- Hong Kong

- Hungary

- Iceland
- India
- Indonesia
- Iran

- Iraq

- Ireland
- Isle of Man
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- Montserrat
- Morocco
- Mozambique
- Myanmar/Burma

- Namibia
- Nauru

- Nepal

- Netherlands
- New Caledonia
- New Zealand
- Nicaragua

- Niger

- Nigeria
- Niue

- Norfolk Island
- Northern Mariana Islands
- North Korea
- North Macedonia
- Norway
- Oman
- Pakistan

- Palau

- Palestine
- Panama
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- Sri Lanka
- Sudan
- Suriname
- Svalbard and Jan Mayen
- Sweden
- Switzerland

- Syria

- Taiwan
- Tajikistan
- Tanzania
- Thailand

- The Gambia

- Timor-Leste
- Togo

- Tokelau
- Tonga

- Trinidad and Tobago
- Tunisia
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- Turks and Caicos Islands
- Tuvalu

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* Field of activity or sector (if applicable)

- Accounting
- Auditing
- Banking
- Credit rating agencies
- Insurance
- Pension provision
- Investment management (e.g. hedge funds, private equity funds, venture capital funds, money market funds, securities)
-

Market infrastructure operation (e.g. CCPs, CSDs, Stock exchanges)

- Social entrepreneurship
- Other
- Not applicable

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

* Contribution publication privacy settings

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

Anonymous

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

Public

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

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

1. General questions

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

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

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

Please explain your answer to question 1.1 and provide examples:

5000 character(s) maximum

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

DBG supports the goals set out in the European Commission's (EC) Capital Markets Union 2020 Action Plan placing a clear focus on retail investors and making the European Union (EU) an even safer place for individuals to save and invest for the long term. In this context, we warmly welcome the timely development of a dedicated EU retail investment strategy.

While retail investor participation has increased in 2020, overall participation in the EU remains relatively low compared to other jurisdictions. To facilitate and further enhance EU citizens to participate in capital markets, comprehensive investor protection remains essential and is a prerequisite to ensure trust. In this context, we believe that the current framework may need to be revised to ensure that retail investors continue to be sufficiently empowered and protected (see our answers in this consultation paper). This also means that new developments, including services related to the major societal and technological changes; sustainability, digitalisation, require to be reflected on thoroughly. Only then the current trend can become the necessary common practice in the long run.

We agree with the EC that financial products and services remain complex for many retail investors. To enable individuals to manage their finances and invest appropriately, it is key that they are able to understand the risks and benefits of investments and the different options available to them. Linking financial education with a sufficient level of transparency can help bridge this gap. While the primary responsibility for financial education lies with the Member States, this combined approach provides the EU with the opportunity to enable retail investors by ensuring appropriate disclosures and adequate transparency requirements. Firstly, appropriate disclosures of risks and opportunities must be done in a way that allows individuals to assess whether risks are being properly managed. Secondly, transparency requirements must include the disclosure of comprehensive information on assets, the specific risks involved, as well as the cost of investing in such assets.

The 2021 ESMA report on performances and costs of EU retail investment products shows that retail investors receive poorer terms compared to institutional investors and that transparency across EU Member States is only comparable to a limited extent. Moreover, "retail investors pay above 40% more than institutional investors across asset classes". [1]

In this context we understand that the EC is focusing on more transparency for retail investors in terms of price data on different asset classes. Already today, Deutsche Börse Group (DBG) provides data free of charge delayed 15 minutes via its homepage to any interested party. While we want to caution against expecting too much from a Consolidated Tape (CT), we would indeed see merit to provide intraday (e.g. 15 minutes delayed) EU wide aggregated post-trade data via the internet, for all retail relevant asset classes, such as equity, bonds, and ETFs. ETFs in particular are attractive to retail investors as they offer risk-diversified investments at low cost. This would facilitate easy access to a comprehensive EU and trading /execution venues post-trade transparency and would be a new and unique offer within the EU. However, this is only one measure. We also believe it is necessary to increase transparency in payment for

order flow practices, as they lead to an environment where competition no longer takes place through transparent pricing, but only through direct or indirect payments to market makers and execution venues for generating order flow to the detriment of investors.

Here, the specificities of retail investors must also be considered as there exists no single type of retail investor. Rather, there are countless different types of investors who pursue different investment strategies, use different instruments, services and tools, and have different attitudes along the risk-return continuum. For example, some investors prefer the services of traditional players when investing in the capital market while others are increasingly interested in financial services offered by new players such as neobrokers and roboadvisors. While these new players may facilitate investing and meet the diverse needs of investors, they can also introduce new risks in terms of security and transparency. Current regulations may not yet be comprehensive enough to cover potential associated risks. In our view, it is important to ensure that all digital services provided to retail investors are properly regulated and supervised according to the principle of technology neutrality, i.e. "same business, same risk, same rules".

[1] ESMA Annual Statistic Report on performances and costs of EU retail investment products, 2021, https://www.esma.europa.eu/sites/default/files/library/esma_50-165-1710_asr_performance_and_costs_of_eu_retail_investment_products.pdf

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

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

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

Please explain your answer to question 1.2:

5000 character(s) maximum

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

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

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

Please explain your answer to question 1.3:

5000 character(s) maximum

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

The response to this question is a joint statement by the following companies operating stock exchanges throughout Germany:

- Baden-Württembergische Wertpapierbörse GmbH (Börse Stuttgart),
- Bayerische Börse AG (Börse München),
- BÖAG Börsen AG (Börse Düsseldorf, Börse Hamburg und Börse Hannover),
- Börse Berlin AG (Börse Berlin),
- Deutsche Boerse Group

Together with

- Bundesverband der Wertpapierfirmen e.V. (bvf, Federal Association of Securities Trading Firms)

There are observable regulatory obstacles preventing retail investments in listed instruments such as shares, bonds, and low-cost ETFs, which should be removed. For instance, retail investors' access to corporate or bank bonds is increasingly limited by regulation. In particular, corporate bonds with no other embedded derivative than a "make-whole" clause despite being considered as "safe and simple products that are eligible for retail clients", as it is stated in recital 4 of the recently adopted MiFID II amendments (the so-called MiFID II "quick fix"), are still de facto inaccessible for retail investors because of a remaining uncertainty among market participants, since it has not been clarified yet, that these "safe and simple" products are consequently not considered anymore to be "packaged" retail investment product (PRIIPs).

An analysis conducted by Börse Stuttgart in April and December 2019, could demonstrate that around 4/5 of corporate bonds listed at Börse Stuttgart could not be traded by retail investors anymore[1]. As a result, trading volumes of these instruments have dropped significantly and have remained at comparably very low levels ever since. Furthermore anecdotal evidence by all exchanges supporting this statement confirm that the results have been practically the same across trading venues.

This de facto inclusion of classic bonds in the PRIIPs regulation result from (informal) comments by Commission members in the past and by the consequently increasing number of bond issues availing of the wholesale bond regime with reduced prospectus requirements. The same applies to provisions for product governance defined in the "Guidelines on MiFID II product governance requirements" which also results in limited access by retail investors. Consequently, these bonds cannot be accessed by retail investors unless the issuer of the bond publishes a KID. However, this is not realistic as the issuers of these corporate bonds are:

- Non-European firms which do not explicitly market their bonds to European retailers and therefore do not publish a KID in Europe, or
- European firms which do not want to take the risk associated with the publication of a KID. The industry standard is that issuers sell their bonds to their bank consortium and have no further interest in the reselling of these bonds by the banks in particular to retailers.

The German regulator BaFin also noted in a recent report that by the de facto introduction of the KID requirement, there has been a significant decline in trading of corporate bonds in the German market [2].

Beside the KID, the tradability of corporate bonds is further limited by the MiFID II "target market" provision. Often a target market is defined for corporate bonds that does not include retail investors. The recently adopted MiFID II "quick fixed" has formulated favourable exceptions for bonds with a make whole clause. Thus, we call on the EU Commission to remove existing inconsistencies in the assessment of corporate bonds and to align the PRIIPs regulation to the amendments made in the MiFID II "quick fix" by a clarification that bonds with no other embedded derivative as a "make whole" clause are no longer considered to be

PRIIPs. Accordingly, the legislator should extend the relief for simple investment products to all bonds without an embedded derivative.

Furthermore, a review of the pension legislation, both at national (2nd and 3rd pillars) and EU levels (e.g. PEPP proposal and pension funds rules) is necessary to foster access of pension savers to these products. Employee share ownership should be promoted to foster an equity culture in Europe. Financial incentives, e.g. tax breaks, should be promoted to enable long-term direct investment. Therefore, the contributors to this joint statement urge the EU Commission to carefully review existing provisions and remove these barriers which prevent retail investors from accessing simple financial products such as corporate bonds. Concerning the scope of the PRIIPs regulation, we hoped that the issue of the (non-)tradability of corporate bonds would have been addressed more directly in this consultation paper.

[1] https://www.boerse-stuttgart.de/-/media/files/gruppe-boerse-stuttgart/pressemitteilungen/de/2020/boerse-stuttgart_white-paper-brse-stuttgart_tradability-of-corporate-bonds.ashx

[2] See BaFin Journal, April 2021, p. 32ff. https://www.bafin.de/DE/PublikationenDaten/BaFinJournal/AlleAusgaben/bafinjournal_alle_node.html

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

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

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 checked="" type="radio"/>	<input type="radio"/>	<input type="radio"/>
Understandable for retail investors	<input type="radio"/>	<input type="radio"/>	<input checked="" type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>
Easy for retail investors to compare with other products	<input type="radio"/>	<input checked="" type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>
Offered at competitively priced conditions	<input type="radio"/>	<input checked="" 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 checked="" type="radio"/>	<input type="radio"/>
Adapted to modern (e.g. digital) channels	<input type="radio"/>	<input type="radio"/>	<input checked="" type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>
Adapted to Environmental, Social and Governance (ESG) criteria	<input type="radio"/>	<input type="radio"/>	<input checked="" type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>

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

Please select as many answers as you like

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

Please 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 type="radio"/>	<input checked="" 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 type="radio"/>	<input checked="" type="radio"/>	<input type="radio"/>
Increase their participation in financial markets	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input checked="" type="radio"/>	<input type="radio"/>	<input type="radio"/>
Find objective investment information	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input checked="" type="radio"/>	<input type="radio"/>	<input type="radio"/>
Better understand disclosure documents	<input type="radio"/>	<input type="radio"/>	<input checked="" type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>
Better understand professional advice	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input checked="" 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 checked="" type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>
Follow a long-term investment strategy	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input checked="" type="radio"/>	<input type="radio"/>	<input type="radio"/>

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

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

5000 character(s) maximum

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

We welcome the OECD's and the European Commission's new financial literacy competence framework and its focus on emerging issues, including financial digitalisation and sustainable finance. Low levels of financial literacy are a major obstacle to a successful Capital Markets Union (CMU), as the European Commission has already recognised in the CMU Action Plan. At the national level, citizens who lack understanding of even basic financial concepts are not well equipped to make informed financial decisions regarding saving, investing, and borrowing. Promoting public capital markets must go hand in hand with measures to maintain confidence in the markets. To increase the participation of retail investors in capital markets, Member States should promote and introduce more capital-based pension schemes and tax incentives.

Deutsche Börse Group (DBG) promotes the equity culture among private investors with several measures:

1. The Capital Markets Academy of DBG offers trainings and seminars tailored to the needs of retail investors.
2. DBG regularly offers webinars and lectures on specific topics for private investors.
3. Several handbooks provide retail investors with a well-founded and advertising-free introduction to relevant aspects of investing in financial instruments traded on stock exchanges. In detail, they cover the asset classes ETFs and funds, available order types and the subscription of new issues via the stock exchange.
4. Provision of general information about trading, tradable instruments, access to market data and other relevant information, etc. can be found via webpage, app, and various social media channels.

At EU level, we would welcome a balanced and coordinated approach building on the OECD framework among Member States to ensure equal opportunities for retail investors to participate in the market. Moreover, when drafting new legislation, the EU Commission shall ensure to consider the average level of financial literacy of its citizens ensuring not to create more barriers for them but rather enabling market participation.

3. Digital innovation

Digitalisation and technological innovation and the increasing popularity of investment apps and web-based platforms are having profound impacts on the way people invest, creating new opportunities (e.g. in terms of easier access to investment products and capital markets, easier comparability, lower costs, etc.). However technological change can also carry risks for consumers (e.g. easier access to potentially riskier products). These changes may pose challenges to existing retail investors, while investor protection rules may no longer be fit for purpose.

Open finance, (i.e. giving greater access to customer data held by financial institutions to third party service providers to enable them to offer more personalised services) can, in the field of investment services, lead to better financial products, better targeted advice and improved access for consumers and greater efficiency in business-to-business

transactions. In the [September 2020 digital finance strategy](#), the Commission announced its intention to propose legislation on a broader open finance framework.

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

Please explain your answer

5000 character(s) maximum

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

We would like to emphasise that the payment services sector is very different from the financial services sector in terms of the services and products provided. For example, financial services aim at enabling investments in a product that is expected to generate a future return, whereas payment services primarily aim at establishing a transaction between a sender and receiver of a product. Therefore, we would like to express our caution that an 'open finance' approach, similar to that made in the field of payment services, may be directly and equally applied in the field of retail investments.

Nevertheless, we think that technological progress can lead to more competition as well as more suitable, individualised offerings for retail investors (e.g., convenient management of different securities accounts under one single umbrella account for different brokers / trading venues / advisors) in the financial sector. Hence, we agree with the European Commission that digitization and technological innovation, including the resulting new services, can open up new opportunities, but may also entail certain risks that the existing regulatory framework may not fully address.

In this regard, we believe it is essential to ensure that all services provided to retail investors are provided by a regulated entity and that oversight of these services is enforced, whether through digital or other means. This would also include potentially new, so far unregulated entities. In this context, we think that technology-neutrality and the "same business, same risks, same rules" principles are crucial, especially with regard to retail investment.

For example, we see the trend of "Decentralized Finance" (DeFi) with financial products built on Distributed Ledger Technology (DLT) networks, often on public blockchains, where financial services are offered via pure peer-to-peer layers to (retail-) clients without a "central" intermediary via digital tools, such as "smart contracts. These new and innovative concepts within DeFi are attracting growing interest, also among retail investors. However, DeFi does not appear to be fully covered by existing financial regulation or it is unclear how regulation applies in these decentralized contexts. This in turn creates a financial risk for investors, as they are not protected the same way as in other markets. To address this issue, it is important to focus on the key principles and roles in financial markets when it comes to crypto-assets and the functionalities of related services. We believe that it does not matter whether a market is organised centrally or decentrally, but there must be rules and someone in charge with appropriate oversight. Here, financial market infrastructures, in their role as market operators, could act as "trusted third parties" by taking over important functions for other participants within the network. Hence, in order to fully exploit the potential of these and other new technological developments, we believe that a high level of trust and legal clarity must be ensured within the financial regulatory framework. It is essential that all entities providing financial services and functions to customers, especially retail investors, are properly regulated and supervised.

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

Please explain your answer

5000 character(s) maximum

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

New technologies, such as Digital Identity, are a decisive factor for the future of financial markets and the economy as a whole. One example is in the context of anti-money laundering/ Know Your Customer, where this can be an important building block to achieve greater transparency and efficiency.

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

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

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

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

Please explain your answer to question 3.3:

5000 character(s) maximum

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

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

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

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

Please explain your answer to question 3.4:

5000 character(s) maximum

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

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

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

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

Please explain your answer to question 3.5:

5000 character(s) maximum

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

There is still a lot of misleading marketing to retail investors. Therefore, it is important to ensure that investors are not lured with dubious claims and misleading promises, e.g. by making customers believe they are trading on an exchange but in reality they are trading off-exchange or with feigned "liquidity" and "quotes" that never trade.

Overall, ESMA notes that there is limited comparability of transparency across Member States. Heterogeneity and problems with the availability of information persist, as does a lack of harmonization between national regulations. Fact-based and comparable information on investment vehicles is crucial to ensure that any retail investor can clearly understand the risks and costs associated with certain investments. Marketing often plays a significant role in investor information, and misleading information should be avoided at all costs. A 2018 study by the EU Commission concludes that financial services for consumers are consistently ranked among “the poorest performing services market” [1]. While this does not appear to have changed significantly, payment for order flow (PFOF) may be even accelerating this phenomenon. In the United States, PFOF practices often go hand in hand with new technological developments, such as new trading apps. Younger investors in particular are attracted to new services and tools, but also to the promise of free trading. However, this promise can prove particularly costly as hidden costs are not disclosed to investors (as is the case with PFOF), which can lead to high opportunity costs. Avoidance of unfair marketing and full transparency regarding PFOF or other hidden implicit costs should be provided to retail investors. At a minimum, there should be a clear and monitored transparency requirement and avoidance of any misleading advertisements.

Another risk for retail investors is related to marketing via social media or the Internet in general, which the US Securities and Exchange Commission already informed about in 2014. It is generally easy to create a website, account, email, etc. that looks and feels legitimate when in fact it has been set up by a fraudster. [2] Against this background, we also support ESMA’s statement on risks to retail investors of social media driven share trading. [3]

The FCA stated in 2020 that “the investment distribution process, and the support network around it, is not working well enough for consumers to make effective decisions about their investments” and “some consumers are exposed to more investment risk than they expected or can absorb,We want to ensure that products are designed to meet consumers’ needs, deliver value for money, and are marketed in a fair, clear and not misleading way”. The FCA, for example, planned an advertising campaign to publicly warn retail investors of such risks.[4]

[1] European Commission (2018), “Distribution systems of retail investment products across the European Union”, April, https://ec.europa.eu/info/sites/info/files/180425-retailinvestment-products-distribution-systems_en.pdf

[2] SEC, Investor Alerts and Bulletins, Updated Investor Alert: Social Media and Investing: Avoiding Fraud, Nov. 12, 2014.

[3] ESMA (2021), <https://www.esma.europa.eu/press-news/esma-news/esma-highlights-risks-retail-investors-social-media-driven-share-trading>.

[4] FCA campaign: retail investment market is failing consumers, by James Fitzgerald, April 2020, <https://citywire.co.uk/wealth-manager/news/fca-retail-investment-market-is-failing-consumers/a1344577>

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

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

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

5000 character(s) maximum

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

Fact-based and comparable information on investment vehicles is crucial to enable any retail investor to clearly understand the risks and costs associated with certain investments. In this context, ESMA notes that there is limited comparability of transparency across Member States. Heterogeneity and problems in the availability of information persist, as does a lack of harmonization between national regulations. [1]

With regard to ESMA's opinion on the GameStop incident in the United States, DBG also supports clear rules and supervisory practices, particularly with regard to products sold over-the-counter (OTC) to retail investors. [2]

[1] ESMA Annual Statistical Report, 2021, "Performance and Costs of EU Retail Investment Products, https://www.esma.europa.eu/sites/default/files/library/esma_50-165-1710_asr_performance_and_costs_of_eu_retail_investment_products.pdf

[2] ESMA Statement on Episodes of High Volatility in Trading of Certain Stocks, https://www.esma.europa.eu/sites/default/files/library/esma70-155-11809_episodes_of_very_high_volatility_in_trading_of_certain_stocks_0.pdf

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

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

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

Please explain your answer to question 3.7:

5000 character(s) maximum

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

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

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

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

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

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

Please explain your answer to question 3.9:

5000 character(s) maximum

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

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.

Comprehensive investor protection is crucial if retail savings are to be channeled into long-term and/ rewarding investments. Investor protection facilitates trust in markets, which is a prerequisite for activating the current high level of savings. Having a look at the retail investor structure in the EU, older investors in particular are concerned about risks associated with their savings, while younger investors seem to be pro-actively using new services such as neobrokers and roboadvisors. While these new services can facilitate investing and meet the diverse needs of users, they can also introduce new risks in terms of security and transparency, especially when new and unregulated entities are involved in the value chain. Current regulation may not yet be comprehensive enough to cover these new risks.

Transparency of risks (and also opportunities) is essential for all investors. Transparency requirements provide comprehensive information on assets, the specific risks involved, as well as the cost of investing in such assets. The ESMA report on performance and cost of EU retail investment products (2021) showed that “retail investors pay above 40% more than institutional investors across asset classes. A ten-year investment of EUR 10,000 in a portfolio composed of equity, bond and mixed funds led to a gross value of around EUR 21,800 and EUR 18,600 after costs. Around 3,200 in costs were paid by the investor”. Therefore, comprehensive and comparable cost information is crucial for retail investors. This should also include information on payment for order flow.

A recent study by ESMA shows that retail investors actually receive poorer terms compared to institutional investors. Fact-based and comparable information on investment vehicles is crucial to ensure that any retail investor can clearly understand the risks and costs associated with certain investments. In this regard, ESMA finds that there is limited comparability of transparency across EU Member States. Heterogeneity and availability of information as well as a lack of harmonisation between national regulations remain problematic [1].

With respect to new technologies, we consider it is essential to ensure that any digital service provided to retail investors is provided by a regulated entity and that oversight of these technologies is enforced. This would include new potential entities providing key/critical technical services to retail investors outside of the regulated entity based on the principles “same business, same risks, same rules”. This is particularly important in the case of retail investment.

[1] ESMA Annual Statistical Report on performance and costs of EU retail investment products, https://www.esma.europa.eu/sites/default/files/library/esma_50-165-1710_asr_performance_and_costs_of_eu_retail_investment_products.pdf

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

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

Please explain your answer to question 3.11:

5000 character(s) maximum

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

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

Please explain your answer to question 4.1:

5000 character(s) maximum

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

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

Question 4.2.1 PRIIPs Key Information Document

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

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

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

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

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

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

Please explain your answer to question 4.2.1:

5000 character(s) maximum

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

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	3 (neutral)	4	5 (very high)	Don't know - No opinion -

		(rather low)		(rather high)		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	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>

distributor and its services						
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.

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Question 4.2.3 PEPP Key Information Document

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

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

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

--

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

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

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

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

Please explain your answer to question 4.2.3:

5000 character(s) maximum

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

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

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

Please explain your answer to question 4.3:

5000 character(s) maximum

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

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

5000 character(s) maximum

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

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

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

Please explain your answer to question 4.5:

5000 character(s) maximum

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

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

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

Please explain your answer to question 4.6:

5000 character(s) maximum

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

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

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

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

5000 character(s) maximum

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

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

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

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

5000 character(s) maximum

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

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

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

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

5000 character(s) maximum

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

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

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

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.

We would consider it beneficial for retail investors, if the scope of the PRIIPs Regulation and the close link to MIFID II could be clarified for exchange traded derivatives (ETDs). ETDs do not systematically meet the criteria of a PRIIP as defined by the regulation and hence should not be included in the scope of PRIIPs as they are primarily financial instruments intended for risk management and hedging purposes and not investments within the meaning of Art. 4 (1) PRIIPs. Furthermore, retail investors do not have direct access to regulated markets in accordance with the provisions of MiFID II. Therefore, products traded on regulated markets are not 'sold' directly to retail investors by exchanges, which means that KIDs for ETDs should not necessarily be provided by exchanges according to recital 12 of the PRIIPS regulation.

Due to the highly standardised design of futures and options, if kept in scope of the PRIIPs regulation, retail investors will continue to be confronted with a wide range of KIDs, most of which are identical and thus may create an additional, unnecessary administrative burden for retail investors without providing any additional benefit.

Furthermore, pursuant to Art. 25 (2) and Art. 25 (3) MiFID II, investment firms must assess the suitability or appropriateness of their clients in relation to the specific type of product and service. The assessment involves investment firms ensuring that their clients have sufficient knowledge and experience of the specific product or service to ensure that the client is aware of all risks. Investment firms distributing ETDs to retail investors are therefore required to thoroughly assess in advance whether a new retail investors understands these financial products.

Against this background, we would welcome a reassessment of the scope of PRIIPS with respect to ETDs. Should KIDs for ETDs continue to be required by exchanges, a 'high level aggregation' principle is proposed for ETDs, meaning that ETDs with the same risk and reward profile and type of underlying should be able to be grouped together for the purposes of a KID. This would help retail investors find the relevant KIDs more easily, while reducing the amount of identical KIDs for futures and options, which are perceived confusing, misleading and offer little or no added value for retail investors.

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

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

be converted into cash	<input type="radio"/>	<input type="radio"/>	<input checked="" type="radio"/>	<input type="radio"/>
Other	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>

Please explain your answer to question 4.8:

5000 character(s) maximum

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

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

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

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

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

Please explain your answer to question 4.9:

5000 character(s) maximum

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

There is a weakness in the calculation of cost itself. Cost reports can be biased when implicit cost (wide bid-ask spreads or incorporated structuring-cost) are not incorporated in the disclosure. This is particularly relevant in cases, where retail-clients trade OTC and apart from the lit trading venues where the price-formation process is dictated by the investment-firm rather than being a result of offer and demand as it is the case on lit trading venues.

The ex-post information on cost-disclosure as such is certainly useful.

Besides, we see merit to have EU wide harmonized disclosure requirements, which allow for comparability across capital markets.

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

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

Please explain your answer:

5000 character(s) maximum

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

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

Please explain your answer:

5000 character(s) maximum

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

The current disclosure requirements for complex products (KIDs) go far beyond the requirements for simpler products. We believe this additional information to be sufficient. However, the definition of “complex” products is not always appropriate.

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

- On paper by default?
- In electronic format by default, but on paper upon request?
- In electronic format only?
- Don't know / no opinion / not applicable

Please explain your answer to question 4.12:

5000 character(s) maximum

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

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

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

Please explain your answer to question 4.13:

5000 character(s) maximum

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

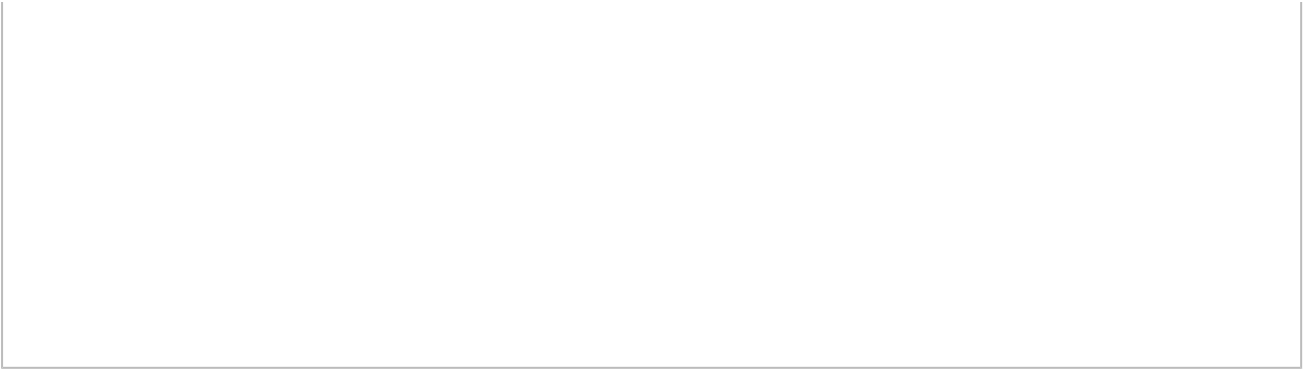
The basic requirement should be that KIDs are provided in the official languages of the country where the trading venue is located and in English, the predominant language in international finance.

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

Please explain your answer to question 4.15:

5000 character(s) maximum

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

5. The PRIIPs Regulation

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

Core objectives of the PRIIPs Regulation

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

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

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

Please explain your answer to question 5.1 a):

5000 character(s) maximum

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

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

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

Please explain your answer to question 5.1 b):

5000 character(s) maximum

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

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

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

Please explain your answer to question 5.1 c):

5000 character(s) maximum

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

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

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

Please explain your answer to question 5.1 d):

5000 character(s) maximum

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

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.

We would consider it beneficial for retail investors, if the scope of the PRIIPs Regulation and the close link to MIFID II could be clarified for exchange traded derivatives (ETDs). ETDs do not systematically meet the criteria of a PRIIP as defined by the regulation and hence should not be included in the scope of PRIIPs as they are primarily financial instruments intended for risk management and hedging purposes and not investments within the meaning of Art. 4 (1) PRIIPs. Furthermore, retail investors do not have direct access to regulated markets in accordance with the provisions of MiFID II. Therefore, products traded on regulated markets are not 'sold' directly to retail investors by exchanges, which means that KIDs for ETDs should not necessarily be provided by exchanges according to recital 12 of the PRIIPS regulation.

Due to the highly standardised design of futures and options, if kept in scope of the PRIIPs regulation, retail investors will continue to be confronted with a wide range of KIDs, most of which are identical and thus may create an additional, unnecessary administrative burden for retail investors without providing any additional benefit.

Should KIDs for ETDs continue to be required by exchanges, we propose a 'high level aggregation' principle for ETDs, meaning that ETDs with the same risk and reward profile and type of underlying should be able to be aggregated for the purposes of a KID. This would help retail investors find the relevant KIDs more easily, while reducing the amount of identical KIDs for futures and options, which are perceived confusing and misleading.

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



Please explain your answer to question 5.2.1:

5000 character(s) maximum

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

The PRIIPs KID

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

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

Please explain your answer to question 5.3:

5000 character(s) maximum

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

Implementation and supervision of the PRIIPs Regulation

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

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

Please explain your answer to question 5.4:

5000 character(s) maximum

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

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

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

Please explain your answer to question 5.5:

5000 character(s) maximum

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

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

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

 €

Please explain your answer to question 5.6 a):

5000 character(s) maximum

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

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

 €

Please explain your answer to question 5.6 b):

5000 character(s) maximum

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

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

 €

Please explain your answer to question 5.6 c):

5000 character(s) maximum

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

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

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

 €

Please explain your answer to question 5.7 a):

5000 character(s) maximum

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

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

 €

Please explain your answer to question 5.7 b):

5000 character(s) maximum

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

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

 €

Please explain your answer to question 5.7 c):

5000 character(s) maximum

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

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

Please select as many answers as you like

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

Please explain your answer to question 5.8:

5000 character(s) maximum

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

Multiple-Option Products

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

- A separate KID can be prepared for each investment option (Article 10(a))

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

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

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

Question 5.9 Should distributors and/or manufacturers of Multiple Option Products be required to provide retail investors with a single, tailor-made, KID, reflecting the preferred underlying portfolio of each investor?

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

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

Please explain your answer to question 5.9:

5000 character(s) maximum

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

Scope

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

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

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

- Yes
- No

- Don't know / no opinion / not applicable

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

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

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

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

Please explain your answer to question 5.11:

5000 character(s) maximum

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

Under the PRIIPs regulation, manufactures are already required to archive the previous versions of the KIDs for at least four years. If requested by clients or NCAs, the previous versions can be made available upon request. The publication of all previous versions would only be confusing and overwhelming for retail investors.

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

Question 5.12.1 Should the review and update occur more regularly?

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

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

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

Question 5.12.3 What should trigger the update of PRIIP KIDs?

5000 character(s) maximum

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

Please explain your answer to question 5.12:

5000 character(s) maximum

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

As mentioned above, exchanges provide KIDs on an aggregated level, i.e. per asset class, and rarely need to update the content of the KID, only sometimes due to the addition or deletion of an underlying. Therefore, from an exchange perspective, we believe an annual review is more than sufficient.

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
- Agree
- Strongly agree
- Don't know / no opinion / not applicable

Please explain your answer to question 6.1:

5000 character(s) maximum

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

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

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

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

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

Please explain your answer to question 6.3:

5000 character(s) maximum

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

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

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

- Strongly disagree
- Disagree
- Neutral

- Agree
- Strongly agree
- Don't know / no opinion / not applicable

Please explain your answer to question 6.4:

5000 character(s) maximum

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

The appropriateness test ensures that the retail investor has the necessary knowledge and experience to understand the risks associated with the product or investment service being offered or requested. The current implementation of the appropriateness-assessment generally appears to be adequate and sufficient. Most investment firms have adopted a two-step assessment:

- At the beginning of the appropriateness assessment there is a request for knowledge and experience. In case, a product is selected that exceeds the client's knowledge, the respective broker or bank draws the investor's attention to this with an appropriate risk warning.
- Furthermore, algorithms offer specific learning material. Many very good online learning opportunities have emerged in this context. Banks and brokers have made great efforts in recent years to impart financial knowledge to their customers.

In this context, it is important to note that some investment firms seem to be reluctant to offer clients asset classes with which the client has no previous experience. It should therefore not be ignored that clients may wish to explore new asset classes. This opportunity should not be hindered by excessive requirements for knowledge and experience.

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

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

Please explain your answer to question 6.5:

5000 character(s) maximum

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

We are not aware of any substantial omissions or problems with the current implementation of the appropriateness assessment.

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

- Yes

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

Please explain your answer to question 6.6:

5000 character(s) maximum

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

We believe that German Online brokers have set up proper appropriateness assessments.

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

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

Please explain your answer to question 6.7:

5000 character(s) maximum

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

We are of the view that it is sufficient. These warnings are usually clear, positioned at a central process within the order process and very concise.

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

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

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

Please explain your answer to question 6.8:

5000 character(s) maximum

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

We agree and believe that the responsible investor can be expected to make such an investment decision after having been informed accordingly.

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

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

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

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

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

Please explain your answer to question 6.9:

5000 character(s) maximum

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

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

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

Question 6.10 To what extent do you agree that, in its current form, the demands and needs test is effective in avoiding mis-selling of insurance

products and in ensuring that products distributed correspond to the individual situation of the customer?

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

Please explain your answer to question 6.10:

5000 character(s) maximum

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

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

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

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

Please explain your answer to question 7.1:

5000 character(s) maximum

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

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

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

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

Please explain your answer to question 7.2 a):

5000 character(s) maximum

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

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

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

Please explain your answer to question 7.2 b):

5000 character(s) maximum

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

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

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

Please explain your answer to question 7.2 c):

5000 character(s) maximum

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

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

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

Please explain your answer to question 7.2 d):

5000 character(s) maximum

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

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

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

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

Please explain your answer to question 7.3:

5000 character(s) maximum

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

8. Inducements and quality of advice

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 checked="" type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>
An obligation to disclose the amount of inducement paid	<input type="radio"/>	<input type="radio"/>	<input checked="" type="radio"/>	<input 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 checked="" type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>
Obliging distributors to assess the investment products they recommend against similar products available on the market in terms of overall cost and expected performance	<input type="radio"/>	<input checked="" type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>
Introducing specific record-keeping and reporting requirements for distributors of retail investment products to provide a breakdown of products distributed, thus allowing for supervisory scrutiny and better enforcement of the existing rules on inducements	<input type="radio"/>	<input checked="" type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>
Introducing a ban on all forms of inducements for every retail investment product across the Union	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input checked="" type="radio"/>	<input type="radio"/>

Please explain your answer to question 8.1:

5000 character(s) maximum

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

In the area of inducements, we have observed that Payment for order flow (PFOF) has become more and more popular over the last few years and resulted in directing order flow from retail brokers to certain platforms. In this context, PFOF is sometimes paid in cash on a trade-by-trade basis, in cash on a “flat fee” basis or – and this is often the case – indirectly by paying “marketing fees”, “technical maintenance fees” or similar indirect agreements.

The receipt of PFOF from third parties by an investment firm executing client orders causes a clear conflict of interest between the firm and its clients because it incentivises the firm to choose the third party offering with the highest payment, rather than the best possible outcome for its clients. This conflict of interest often is not manageable - rather, it is the case that the brokers in this conflict of interest are predominantly guided by their own interests (namely to collect the highest PFOF). In this respect PFOF compromises the duty of an investment firm to choose an execution venue for the execution of client orders solely by the aim of obtaining the best possible result for clients (and explicitly NOT by obtaining the biggest amount of PFOF). For the execution of retail investors’ orders, this best possible outcome is to be determined in terms of total consideration, representing the price of the financial instruments and the costs relating to execution.

We acknowledge, that following the GameStop case in the United States, authorities in the EU have committed to scrutinize of this practice as well as new business models in the EU. We appreciate that this public scrutiny will shed some light on the economic motivation behind PFOF practices and the lack of transparency around the magnitude and disclosure of these payments made. DBG is concerned that a broker has an overwhelming incentive to direct order flow to an execution venue that offers him (the highest) payment, although he is supposed to act in the best interests of his clients. However, the duty of the broker to act in the best interests of his clients could be compromised as payment for order flow prevents that clients get best execution.

MiFID II states that a broker shall not receive any payment for routing client orders to an execution venue, which would infringe the requirements on conflicts of interest and the broker has to identify and to prevent or manage these kinds of conflicts of interest. However, we are concerned whether such conflicts of interests are currently addressed in an appropriate and efficient manner, thereby also taking into account any circumvention of supervisory practices and provisions across borders. This has also led to concerns on the part of authorities in some Member States, resulting in a ban of inducements at national level in the Netherlands and the United Kingdom when it was still part of the EU.

We therefore welcome that the European Commission and ESMA have announced to closer examine PFOF and to assess whether PFOF is compatible with MiFID II obligations of best execution and conflicts of interest.

We believe that a ban of PFOF (note that with regard to the options above, we do not think that all forms of inducements should be banned) would be most effective in the long-term and therefore strongly recommend such a ban. Clearly prohibiting that brokers receive any payment in return for order flow would require a change to Art. 27(2) MiFID II. It is crucial, that such a ban would include PFOF in a wide sense including cash-payments on a trade-by-trade basis, cash on a “flat fee” basis all sorts of comparable arrangements like “marketing fees”, “technical maintenance fees” or similar indirect agreements.

In addition, as such a review will take some years until the application of policy changes, but immediate action is required to stop regulatory arbitrage, complementary actions could be considered in the short to

medium term: based on the regulatory scrutiny, ESMA might want to consider using its strengthened tools of supervisory convergence. In this context, we welcome ESMA's recent statement calling on the industry and national competent authorities to thoroughly assess compliance with MiFID II provisions. The sharing of supervisory practices across national competent authorities would help ensure a common understanding of PFOF practices and enhance investor protection. If needed, according to the current legislation, national competent authorities have the discretion to prohibit PFOF where they find that MiFID II rules on conflict of interests and inducements are not met.

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

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

5000 character(s) maximum

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

As per our answer to the previous question, DBG would support targeted changes on Level 1 to address the issue of PFOF. While we do not think that a general ban of all forms of inducements is necessary, a change to Art. 27(2) MiFID II could clearly prohibit that brokers receive any payment in return for order flow.

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.

As per our answer to the previous question, DBG would support targeted changes on Level 1 to address the issue of PFOF. While we do not think that a general ban of all forms of inducements is necessary, a change to Art. 27(2) MiFID II could clearly prohibit that brokers receive any payment in return for order flow.

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

5000 character(s) maximum

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

As per our answer to the previous question, DBG would support targeted changes on Level 1 to address the issue of PFOF. While we do not think that a general ban of all forms of inducements is necessary, a change to Art. 27(2) MiFID II could clearly prohibit that brokers receive any payment in return for order flow.

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.

As per our answer to the previous question, DBG would support targeted changes on Level 1 to address the issue of PFOF. While we do not think that a general ban of all forms of inducements is necessary, a change to Art. 27(2) MiFID II could clearly prohibit that brokers receive any payment in return for order flow.

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

Please explain your answer to question 8.3:

5000 character(s) maximum

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

In the area of inducements, we have observed that Payment for order flow (PFOF) has become more and more popular over the last few years and has successfully resulted in directing order flow from retail brokers to certain platforms. With the GameStop case in the United States, the debate over this practice has been boiling up in the European Union, too, sparking interest in the economic motivation behind PFOF practices and revealing the lack of transparency around the magnitude and publication of these payments made.

DBG is concerned that a broker has an incentive to direct order flow to an execution venue that offers him (the highest) payment, although he is supposed to act in the best interests of his clients. However, the duty of the broker to act in the best interests of his clients could be compromised as payment for order flow prevents that clients get best execution. MiFID II states that a broker shall not receive any payment for routing client orders to an execution venue which would infringe the requirements on conflicts of interest and the broker has to identify and to prevent or manage these kinds of conflicts of interest. In their conflict of interest policies, brokers disclose the payments they receive. They usually also disclose the inducements in the ex-ante cost disclosure “provided” to the client prior to a transaction. However, we have reason to believe that those payment benefits are not properly disclosed in a comprehensive, accurate and understandable manner for end investors. This is especially harmful for clients relying on best execution policies as they do not get any ex-ante cost disclosure at all. Therefore, we are concerned whether such conflicts of interests are currently appropriately addressed.

Furthermore, we also share the concerns expressed by Better Finance in its recent report, stressing that

PFOF schemes have a detrimental effect on markets; they may lead to hidden costs and worse prices for end investors, hinder competition between market makers and trading venues (pay to play models), cause negative selection of order flow and most worryingly create an inherent conflict of interest between the broker and its client. This has also led to concerns on the part of authorities in some Member States, resulting in a ban of inducements at national level in the Netherlands and the United Kingdom when it was still part of the EU.

We therefore welcome that the European Commission and ESMA have announced to closer examine PFOF and to assess whether PFOF is compatible with MiFID II obligations of best execution and conflicts of interest. In this context, we also welcome the recent statement by ESMA concluding that PFOF would lead to conflicts of interest and calling on the industry and national competent authorities to thoroughly assess compliance with MiFID II provisions in this regard. Nevertheless, we believe that conflicts of interests between broker and client arise but are not manageable. Therefore, DBG strongly supports a ban for payment for order flow.

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
-

Introducing specific record-keeping and reporting requirements for distributors of retail investment products to provide a breakdown of products distributed, thus allowing for supervisory scrutiny and better enforcement of the existing rules on inducements

- Introducing a ban on all forms of inducements for every retail investment product across the Union
- Other

Please explain your answer to question 8.5:

5000 character(s) maximum

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

If regulators conclude that they have no means of proper oversight of these market practices, we recommend a policy change to bring supervisors and the public into a position where they have access to information through stricter rules on broker information disclosures & publication. However, should the recent conclusion by ESMA be confirmed by the Commission that PFOF is not compatible with MiFID II provisions of conflicts of interest, regulators should explore the possibility to change MiFID II/MiFIR and ban PFOF across the EU.

As part of this, we would also encourage policymakers to consider whether a targeted amendment to Article 27(2) would be helpful address the concerns raised by PFOF models in the EU: "2. An investment firm shall not receive any remuneration, discount or non-monetary benefit for routing client orders to a particular trading venue or execution venue as this which would infringe the requirements on conflicts of interest or inducements set out in paragraph 1 of this Article and Article 16(3) and Articles 23 and 24".

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

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

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

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

5000 character(s) maximum

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

Whilst MiFID II/MiFIR put in place some safeguards against conflicts of interest and poor execution practices, a review of PFOF, in both its direct and indirect forms should be undertaken with a view to ensuring that best execution is achieved, and conflicts of interest are prevented. Indeed, PFOF schemes provide for potential conflicts of interest due to payment of inducements and possible breach of the obligations surrounding best execution of the client's orders. In fact, DBG believes that there is a per se conflict of interest between the broker and its client and that the identification and management of this conflict of interest is impossible (at least the latter one).

Hence, we recommend a change of the Level 1 text as part of the upcoming review of MiFID II/MiFIR to clearly prohibit PFOF. Concretely a change for Article 27(2) of DIRECTIVE 2014/65/EU, i.e. that payment for order flow is prohibited as there is per se a conflict of interest between the broker and the client: „An investment firm is not allowed to receive any remuneration, discount or non-monetary benefit for routing client orders to a particular trading venue or execution venue as this is an infringement against the requirements on conflicts of interest or inducements set out in paragraph 1 of this Article and Article 16(3) and Articles 23 and 24 of DIRECTIVE 2014/65/EU.” It is crucial, that such a ban would include PFOF in a wide sense including cash-payments on a trade-by-trade basis, cash on a “flat fee” basis all sorts of comparable arrangements like “marketing fees”, “technical maintenance fees” or similar indirect agreements.

As such a review will take some years until the application of policy changes, complementary actions could be considered in the medium term: based on the regulatory scrutiny ESMA might want to consider using its strengthened tools of supervisory convergence. In this context, we welcome ESMA's recent statement calling on the industry and national competent authorities to thoroughly assess compliance with MiFID II provisions. The sharing of supervisory practices across national competent authorities would help ensure a common understanding of PFOF practices and enhance investor protection. If needed, according to the current legislation, national competent authorities have the discretion to prohibit PFOF where they find that MiFID II rules on conflict of interests and inducements are not met. In fact, this has already been done in the UK when it was still part of the EU, and in the Netherlands.

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

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

Please explain your answer to question 8.7:

5000 character(s) maximum

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

We welcome that the European Commission and ESMA have announced to closer examine PFOF and to assess whether PFOF is compatible with MiFID II obligations of best execution and conflicts of interests. PFOF schemes are harmful for the market as they lead to an inherent conflict of interest between the broker and his client. In fact, the duty of the broker to act in the best interests of his clients is most likely compromised as PFOF prevents that clients get best execution. Whilst retail investors might benefit from lower explicit costs (as PFOF schemes are mainly used by zero-commission brokers this does not mean that investors are obtaining the best possible execution quality: end investors pay higher implicit costs because 1) market makers making such payments can only earn from trading against retail order flow at different prices (implicit transaction costs for the retail clients) and 2) fragmentation between retail and institutional venues will increase and hence put price formation at risk. Those effects will most likely amplify in the future

with the development of retail trading across the EU which we have seen since early 2020.

It is doubtful, if brokers running regulated business-models, where the only (or most relevant) revenue stream consists out of PFOF, can be considered to fulfill the best-execution requirements. In a perfect best-execution scenario, a broker would consider explicit and implicit costs of a trading venue to lead the order-flow to the venue that provides the best execution for its client. If a venue has to pay for the order-flow – then only, because it would not get the flow from the very beginning – precisely because it does not provide the best execution. Therefore, we believe, that this conflict of interest can only be resolved by a ban of PFOF altogether.

It is crucial, that such a ban would include PFOF in a wide sense including cash-payments on a trade-by-trade basis, cash on a “flat fee” basis all sorts of comparable arrangements like “marketing fees”, “technical maintenance fees” or similar indirect agreements.

Currently, ESMA describes in its “Questions and Answers On MiFID II and MiFIR investor protection and intermediaries topics” that MiFID II does not prohibit firms from selecting only one execution venue to execute client orders in a given class of financial instruments provided that they are able to demonstrate that such a choice enables them to consistently get the best results for their clients. It is doubtful from our perspective, especially considering the events around GameStop in the United States early this year that this single execution venue approach can be brought in line with the best-execution requirements – especially, when the single venue is not the reference market.

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

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

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

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

5000 character(s) maximum

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

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

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

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

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

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

Please explain your answer to question 8.10:

5000 character(s) maximum

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

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

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

9. Addressing the complexity of products

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

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

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

Please explain your answer to question 9.1:

5000 character(s) maximum

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

Promoting trading of well-regulated financial instruments such as equities, bonds, and Exchange Traded Funds (ETFs) as simple, affordable, liquid, and transparent long-term investment vehicles on regulated markets should be central to the Capital Market Union's objective of increasing investor participation.

For example, ETFs cover a wide range of sectors, countries, asset classes and allow to pursue different individual investment strategies (e.g., sustainable development), create liquid secondary markets and enable investors to participate in economic development. ETFs are used for risk diversification, liquidity management and securities lending by market participants and issuers.

In particular, investing in ETFs on-exchange, i.e. in a regulated and supervised environment,

- enables retail investors to examine and compare the liquidity profiles of individual ETFs, which is not possible off-exchange;
- allows for lower execution prices, as exchanges pool liquidity from different groups into a single order book by allowing investors to interact with market makers, proprietary trading firms, and retail and institutional investors. This in turn can lead to tighter spreads and lower overall execution costs. Moreover, investors are not bound to accept prices provided by market makers, as is the case with Over-the-Counter (OTC) and Request For Quotation (RFQ) platforms, but can place their own limit orders in the order book. This can lead to further cost savings by achieving a more favorable execution price;
- provide an additional safety net: through centralized clearing models, exchanges reduce the risk of settlement errors in ETF trades.

Moreover, in terms of costs, according to ESMA's 2021 annual statistical report on the performance and costs of EU retail investment products, the costs of active equity and bond UCITS were higher compared to passive and ETFs UCITS (observation period from 2009-2018), which ultimately means an average net underperformance of active equity and bonds UCITS compared to passive and ETFs UCITS - and although active UCITS outperformed passive and ETFs UCITS on a gross basis, this could not compensate for the higher costs charged by active UCITS. [1]

Much of ETF trading takes place OTC and there is a trend for ETF trading via RFQ trading services to move more towards smaller order sizes. This is problematic because there is less transparency and price referencing compared to trading on a regulated market. This should be closely examined by the authorities, with possible consideration of introducing minimum order sizes and increasing transparency requirements for RFQ trading services.

Overall priority should be given to facilitating retail investors' access to exchange-traded ETF investments for the reasons stated above.

Similarly, we believe that access to standardized and cleared derivatives on derivatives exchanges should be less burdensome for retail investors. Highly standardized instruments such as Exchange Traded Derivatives can be used by retail investors, especially more sophisticated investors, to address portfolio risks and anticipate market developments. ETDs can therefore be an integral part of retail investors' investment and risk management strategy, especially in adjusting long-term investments to current developments. However, due to the current unlevel playing field, retail investor volume is rather channeled out of the regulated environment to over the counter and thus, to far riskier products and platforms. We would therefore argue for equal treatment of the retail investors in trading similar products and, in particular, for the required documentation for trading a derivative embedded in a structured investment product issued by a bank and the same market position expressed via an Exchange Traded Derivative on a regulated market. We would also support regulatory harmonization in the EU in order for the retail segment to grow.

[1] <https://www.esma.europa.eu/document/esma-annual-statistical-report-performance-and-costs-retail-investment-products-in-eu-2021>

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.

No. It is not appropriate to further tighten the product offering to retail investors.

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.

No. The added value of such a label would be low. Also, it is difficult for the retail investor to distinguish between "simple products" and "risk averse products". Adding a "simple product label" to a potentially risky, but simple product, could be very misleading.

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.

The Pan-European Personal Pension Product (PEPP) can be one of many potential tools which could unlock funding and allow it to flow directly without intermediation costs from Europe's savers to Europe's businesses.

A PEPP and other more direct products designed in this way could help to achieve the key objectives of CMU through channeling retail savings into capital markets and supporting retail investors in making provisions for their own personal retirement savings.

However, several obstacles hinder the creation of this form of PEPP and/or other direct products both at EU and Member State level.

Currently, each Member State has divergent taxation rules, legislative barriers and legal requirements that make it unfeasible to develop cross-border savings. As the taxation rules are not within the EU authority, measures should be drafted on how to decrease the legislative and legal hindrances. Policymakers should secure that investors would have the choice of where to put their pension.

In addition, had the PEPP offered retail savers with the option to make direct investments in shares and bonds, it would have resulted in an increase in the funding options for firms, i.e. retail investors could have had the choice on what they invest in. The greater the investor's choice, the greater the competition.

Therefore, policy makers should look closer at this product again and try to ensure it will be used as a further choice for investors to invest pan-European.

With regards to the PEPP and the development of other similar products, it is important to maintain maximum transparency and an efficient price forming process for these retail products. Therefore, it is crucial to keep trading and price formation for these products on-exchange as much as possible.

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.

As an overarching goal, end-users should be given access to direct investment and further financial incentives should be introduced to enable long-term direct investment. Promoting long-term, cost-efficient investment is a highly valuable objective, as long-term investors are crucial for well-functioning capital markets.

In the spirit of "better finance", tax incentives for long-term and pension investors should be created, while existing tax discrimination for individual investors in the EU, such as double taxation of dividends, should be eliminated. While both tax incentives and double taxation issues are the responsibility of EU Member States, the CMU should promote appropriate measures in this regard.

A variety of options for end-investors in terms of equity financing and investment must be promoted. Small savers should have the right to invest not only through products such as PEPP but also directly in indices based on national, regional and pan-European equities. The indices used to benchmark these investments should be broad-based and represent both large companies and SMEs.

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.

We believe that fast and effective redress is important if something goes wrong. This applies both to the investment service as such (e.g. investment advice) and to execution. As a stock-exchange, we offer complaint management services with regards to the execution. We believe that it is crucial for retail investors to have such a neutral body that can provide quick redress. Of course, this is not the case when retail investors trade off-exchange. In this case, retail investors would have to negotiate complaints directly with their OTC-trading partners (investment firms). However, in order to maintain trust in the markets, a level playing field for complaints is important.

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?

- 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.

DBG is highly committed to create trust in financial markets and acknowledges the importance of product intervention powers in order to secure financial stability and investor protection in circumstances defined in Art. 40 and Art. 42 of the Markets in Financial Instruments Regulation (MiFIR)

In this context, authorities might want to take into consideration to take a cautious approach as regards product intervention mechanisms. Due to the potentially detrimental effects of product interventions, competent authorities should carefully impose or extend these measures to not impair the development of products that successfully satisfy the needs of investors. For this reason, every dimension along which products, even of the same product class, can differ should be taken into account in order to prevent subjecting harmless products to the product intervention measures.

As an important principle, the well-conceived and highly integrated safeguards and organisational requirements for regulated trading venues as established by MiFID II should be considered as a differentiating factor. When designing and implementing the MiFID II regulatory framework, policy makers and supervisors rightly acknowledged the beneficial contribution that these regulated trading venues bring to markets – not only but in particular for those asset classes that are at early stages of their product lifecycle and hence their readiness to be shifted from OTC to central infrastructures, like trading venues and CCPs, based on the G20 commitment in 2009. Allowing products to be transferred from opaque to transparent environment makes them available for trading in a secure, transparent and well-established exchange environment. These undisputed achievements of MiFID II to enhance the safety, integrity and supervision of trading in a regulated environment should be leveraged and further enhanced for any investor protection measures as well.

Therefore, to further improve the application of the regulatory framework regarding the product intervention powers, we would like to make three remarks for consideration:

- o If a regulatory intervention measure seems necessary, the scope of any such measures has to be clearly defined to prevent uncertainty and unintended consequences regarding the product scope offered for investors on regulated markets. In general, as the prohibition or restriction, even on a temporarily basis, of the marketing, distribution or sale of certain financial instruments can have significant adverse effects on the trading volume of the respective instrument, DBG argues that the product intervention powers of ESMA and competent authorities pursuant to Art. 40 and 42 MiFID II should only be used as ultima ratio, if other correcting measures fail.
- o Product intervention measures should be proportionate and appropriate. The specific trading environment (OTC vs regulated markets) of any product should be considered by ESMA and competent authorities when considering intervention measures.

ESMA and competent authorities should follow an evidenced based approach when deciding on any product intervention measure and analyse whether the product itself, the trading style and/ or environment or the market practices cause any concern for financial stability or investor protection.

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.

ESMA has the appropriate mandate and tools to drive supervisory convergence, recently strengthened by the review of the ESAs. Therefore, the starting point for questions on ESMA's future mandates should be the fulfilment of its current tasks. There is a difference between enhancing convergence on the one hand and expanding ESMA's mandates on the other.

The national competent authorities have the competence, expertise and knowledge to fulfil the tasks within their regulatory and supervisory mandate; due to their proximity to the national market, they even have a higher local supervisory competence than ESMA. We welcome in principle the proposals of the CMU High Level Forum to strengthen supervisory convergence under the current structure but would not support unspecified "emergency powers" and further product intervention measures.

Therefore, we believe that the application of product intervention powers available to national supervisory authorities does not need to be further converged. As stated in the question 11.1 and further in 11.3. National Competent Authorities as well as ESMA have appropriate supervisory powers and should further pursue evidence-based approach in order to make product intervention measures more proportionate.

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.

ESMA has the appropriate mandate and tools to drive supervisory convergence, recently strengthened by the review of the ESAs. Therefore, the starting point for questions on ESMA's future mandates should be the fulfilment of its current tasks. There is a difference between enhancing convergence on the one hand and expanding ESMA's mandates on the other.

The national competent authorities have the competence, expertise and knowledge to fulfil the tasks within their regulatory and supervisory mandate; due to their proximity to the national market, they even have a higher local supervisory competence than ESMA. We welcome in principle the proposals of the CMU High Level Forum to strengthen supervisory convergence under the current structure but would not support unspecified "emergency powers" and further product intervention measures.

To facilitate transparency, regulators and policymakers have established standards for product information which take into account what is appropriate for consumers and their demands. The information is comprehensive and easy to understand, while offering a sufficient level of precision and depth in a

standardised format. Based on this, retail investors should continue to have wide access to different types of investment products. In short, product intervention measures restricting the sale of products to retail investors by supervisory authorities should only be used as a last resort.

For instance, DBG supports ESMA's product intervention measures on binary options and contracts for difference (CFDs). These products are not suitable for retail investors and the measures serve to promote investor protection. Product intervention measures should be proportionate and appropriate, as is the case with ESMA's measures on the above-mentioned instruments. On the contrary, the Dutch Authority for the Financial Markets (AFM) has recently consulted the ESA on measures to restrict the marketing, distribution or sale of Turbos. We disagree with ESMA's Opinion stating that the AFM measures are "justified" and "proportionate". Securitised derivatives, including Turbos, have a long history and cater to the investment needs of the retail investor, allowing for a more sophisticated risk/return approach to their investments. In the case of Turbo certificates, experienced investors use them as a tool to hedge their portfolio risks. With above-average experience in investing and risk-taking, they are well-equipped to weigh chances against risks and to assess the characteristics and the complexity of these instruments. Turbos are by and large traded by self-directed investors that usually have an above-average level of financial literacy. As such, investors engaging in such trades know the associated risks of securitised derivatives products. Their investment objectives vary from investment to speculation or hedging purposes. Furthermore, Turbos are predominantly traded on RMs or MTFs with associated levels of trade transparency, strict trading rules and independent market surveillance. The existing regulatory environment is sufficient. The issuance and distribution of Turbos is comprehensively regulated, inter alia, through the Prospectus Regulation, MiFID II/MiFIR and the PRIIPs Regulation. The Prospectus Regulation contains a comprehensive description of all product features, the issuer, and the risks associated with the issuer and product. This provides investors with an adequate, legally required level of information for securitised derivatives, thereby guaranteeing investor protection. The prior approval of the prospectus by the national competent supervisory authority ensures compliance with the provisions of prospectus law. This requirement to prepare and approve a prospectus clearly distinguishes Turbos from CFDs.

We would also like to highlight that, from ESMA's Opinion, it appears that the French AMF and the German BaFin came to similar conclusions, stating that (i) turbos and CFDs are inherently different; (ii) investors are less likely to lose on a cumulative basis than are CFD investors; (iii) the percentage of turbo investors losing money is somewhat smaller than the percentage of CFD investors incurring losses and (iv) the distribution channels for turbos are better regulated and operate in a less aggressive manner than those for CFDs.

[1] See ESMA, Opinion of the European Securities and Markets Authority of 7 June 2021 on the product intervention measures relating to turbos proposed by the Dutch Authority for the Financial Markets (AFM), p. 13.

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 checked="" type="radio"/>	<input type="radio"/>
Lack of sustainability-related information in pre-contractual disclosure	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input checked="" type="radio"/>	<input type="radio"/>	<input type="radio"/>
Lack of EU label on sustainability related information	<input type="radio"/>	<input type="radio"/>	<input checked="" 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 checked="" type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>
Financial products, although containing some sustainability ambition, focus primarily on financial performance	<input type="radio"/>	<input checked="" 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 checked="" type="radio"/>	<input type="radio"/>	<input type="radio"/>
Other	<input type="radio"/>	<input type="radio"/>	<input checked="" type="radio"/>	<input 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

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

- Lack of clarity of what is a sustainable financial product – multitude of claims and labels
- Lack of education of financial advisors on sustainability topics
- Lack of education of retail investors on sustainability and sustainable finance
- Lack of digestible information on sustainable finance strategies and their actual impacts and implications

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

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

Please explain your answer to question 12.4:

5000 character(s) maximum

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

There is a merit to develop guidelines in consultation with financial services providers to support the suitability process, help match investors' needs with the appropriate range of financial products and develop a consistent language across the distribution chain. Moreover, to not unintentionally hamper growth in the sustainable investment market, current innovation and availability of choices of sustainable finance instruments offered towards retail investors, it is key for financial market participants and those designing sustainable financial instruments to in a first stage receive sufficient clarity of how frameworks around for example MiFID II and IDD suitability rules, SFDR, taxonomy, future Ecolabel as well as ESG benchmarks fits together. Further clarity by the European Commission or potentially the ESAs could be helpful in this regard, as we otherwise see a risk of fragmentation within the market, with industry standards and national labels emerging, in different directions, on top of existing criteria.

The success of guidance is highly dependent on financial advisors' understanding of, training on and adherence to sustainable finance topics, as well as their ability to convey and explain such information to their retail investors. Therefore, a detailed guidance is one step in the process, which should be complemented by other measures such as effective and compulsory training of financial advisers.

However, DBG believes guidelines should be functional and flexible enough to cater for the different business models and different types of offerings proposed by advisors, as this is not limited to single products but may encompass a basket of assets within a portfolio, including financial instruments such as derivatives. Therefore, guidance is opportune to support the development of financial advice in the field of sustainable products. However, as a first step, these guidelines should be adopted via high-level principle-based approach to be able to adapt to different business models. Such clarifications have recently been consulted by ESMA on the guidelines on MIFID II suitability requirements. In such a context, market practices and constraints need to be assessed as a first step, to evaluate on which aspects guidance would be necessary and to have a better understanding of what is important to be at stake. For a retail investor,

this will help in identifying products or services that meet their sustainability preferences. The financial advisor would then need to help retail investors understand the decisions they are making by providing them with the necessary tools to do so. It is very important that regulatory interventions serve to support decision-making and choice, rather than prescribing investment approaches or restricting choice. This is intended to provide clarity to investors and to help channel capital to responsible and sustainable investments.

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

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

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

Please explain your answer to question 12.5:

5000 character(s) maximum

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

In order to inform retail investors and allow them to express their sustainability preference with all the underlying information necessary, ESG criteria should always be included and reported upon in financial products documentation. As such, Financial advisors should therefore be knowledgeable about non-financial aspects and how they can affect companies' risks and opportunities and long-term prospects. Hence, reinforcing the current research regime in order to ensure that ESG criteria are always considered could be taken into account. One key aspect, however, is to ensure that any possible inclusion of ESG criteria requirement does not negatively affect the amount of investment research on SMEs.

13. Other issues

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

5000 character(s) maximum

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

DBG welcomes the EU Commission's consultation on an EU strategy for retail investors and fully agrees with the objectives and benefits to be ensured and achieved for retail investors, as well as those set out in the European Commission's New Capital Markets Union Action Plan. Over the course of the last years, in particular in 2020, we have seen positive developments in EU retail

participation as well as a change in investor behavior. While retail investors continue to follow long-term investment strategies, we see a trend towards passive investments and the emergence of new technologies. ESG will also increasingly become a driving factor in the coming years, not just due to increasing customer demand but in fostering the European transition to achieve the goals set out in the European Green Deal. To take full advantage of these developments, priority must be given to the rapid implementation of the new CMU action plan. We need to build on the long-term investment potential of European citizens' pension savings by removing tax disincentives and enabling retail investors to participate in those parts of the market that are currently inaccessible to them. This also means taking ambitious steps to increase financial literacy of retail investors across the EU. However, the regulatory framework should address the needs of both less well-informed retail investors and investors who understand the risks associated with their investment strategies. This will be key to give European citizens an equal opportunity to participate in wealth creation. Therefore, fact-based and comparable information on investment vehicles is crucial to ensure that any retail investor can clearly understand the risks and costs associated with certain investments. The growing popularity of payment for order flow agreements, where brokers receive payments in order to steer order flow to a certain execution venue, have raised concerns that add to the broader discussion about the proper functioning of our secondary markets and the level of transparency provided. The inherent conflict of interest between the broker and his client leads to questioning compliance with the MiFID II principles of best execution and conflict of interests, i.e. to execute the order in the client's best interest. We therefore welcome the fact that the European Commission and ESMA are taking a closer look at these practices. This will help to provide more clarity. Promoting supervisory convergence and ensuring a harmonized approach across the EU will be key to safeguard investor protection and ensure best execution practices. Against this background, we also welcome the European Commission's refocusing of the upcoming MiFID II review on retail investors and strongly recommend that the positive contribution of financial markets infrastructures to promoting the safety, efficiency and integrity of markets be included. Overall, a comprehensive approach is required, which also means addressing flaws in our highly fragmented equity market structure. All execution venues, whether lit or off-exchange, must contribute equally to the MiFID II transparency regime, also with regard to the requirements to be met in the provision of comprehensive and reliable market data, for the regime to be fully effective. A 15-minute delayed post-trade Consolidated Tape and easy access to end data via the internet could be a viable tool that also serves the interests of retail investors in particular. We believe that comprehensive transparency covering all liquidity pools equally can enhance trust in fair and competitive EU capital markets while providing a complete picture of turnover in bonds, equities and ETFs, all listed and/or traded in the EU. In addition to post-trade data, information on where instruments can be traded within the EU and full visibility of EU companies, including SMEs, would benefit investors in the most convenient way. Taking into account the emergence of new technologies, we believe it is crucial that the European Commission ensures that legislation is technology-neutral and follows the "same business, same risks, same rules" approach, thus providing a level playing field and maintaining the balance between safety and innovation. We are concerned that the DLT Pilot regime would allow retail investors to participate directly while rendering MiFID II investor protection rules inapplicable. It must be ensured that the measures taken to protect investors directly accessing the Pilot are clear and effective."

Overall, it is important to provide retail investors with a framework that allows them to enjoy a high level of transparency while providing integrity and protection so that they can trust and rely on capital markets, to which financial market infrastructure providers can contribute.

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.

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