

BVI¹ response to the European Commission's Consultation on a Retail Investment Strategy for Europe

1. General questions

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

MiFID II introduced comprehensive protection for retail investors. From our perspective, the main objective is to enable the investors to attain an informed decision about their investments. The requirements of MiFID II provide the investors with all the information needed. Furthermore, they are supported in their investment decisions by being provided high-quality investment advice. However, in doing so, the client must not be put under tutelage. The investor must be left with the decision what information and what type of investment advice he/she wishes to obtain.

At this point we would like to note that MiFID II has also entailed severe burdens for asset managers, fund management companies, professional clients and eligible counterparties that would not have been necessary from the perspective of investor protection. This should be taken into account for the revision of MiFID II.

While current regulation provides for protection, measures on empowering retail investor participation in capital markets is required via e.g. automatic enrolment in capital market-based pensions and/or further incentives.

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?

¹ BVI represents the interests of the German fund industry at national and international level. The association promotes sensible regulation of the fund business as well as fair competition vis-à-vis policy makers and regulators. Asset Managers act as trustees in the sole interest of the investor and are subject to strict regulation. Funds match funding investors and the capital demands of companies and governments, thus fulfilling an important macro-economic function. BVI's 116 members manage assets some EUR 4 trillion for retail investors, insurance companies, pension and retirement schemes, banks, churches and foundations. With a share of 27%, Germany represents the largest fund market in the EU. BVI's ID number in the EU Transparency Register is 96816064173-47. For more information, please visit www.bvi.de/en.



- 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

There are several aspects of EU regulation regarding distribution which hinders retail investor participation in capital markets. For example:

In the ELTIF Regulation (EU) 2015/760 the additional requirements according to Art. 30 for marketing ELTIFs to retail investors proved to be a hinderance for the distribution of ELTIFs. More specifically, the obligation of the manager or distributor of the ELTIF to ensure that the potential retail investor does not invest an aggregate amount exceeding 10 % of that investor's financial instrument portfolio in ELTIFs and that the initial minimum amount invested in one or more ELTIFs is EUR 10 000 makes the marketing of ELTIF burdensome. Not only does the manager or distributor have to assess the financial situation of the retail investor, but in practice the investors often are not willing to disclose their overall financial situation to a distributor since those information are sensitive and viewed as a private matter.

Also ESMA's assessment that all alternative investment funds ("AIFs") are obligatory complex without recourse to an individual complexity test (see ESMA MiFID II / MIFIR Investor Protection Q&A, Section 10, Question 1) hinders investors to participate in the capital markets. The category of AIFs covers a wide variety of fund vehicles, ranging from strictly regulated and supervised mutual funds which differ from UCITS investment policies only in certain details (e.g. so called „Gemischte Sondervermögen“ under the German investment law (“Kapitalanlagegesetzbuch”)), to funds for professional investors which are not subject to investment restrictions (including hedge funds). In order to take account of this diversity and not to bring AIFs in a worse position than investment products without risk spreading and prudential supervision, but with issuer risks (e. g. equities), AIFs should have access to the complexity test under Art. 57 of the MiFID II Implementing Regulation. This would allow an individual classification based on the characteristics of the respective product. Such “simple” AIFs could be distributed without an appropriateness test and would be more easily available for retail investors.

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 EU regulation?

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

Please explain your answer to question 1.3

5000 character(s) maximum



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

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

Please specify what other factor(s) might discourage or prevent retail investors from investing
5000 character(s) maximum

We see a massive problem in misguided consumer protection efforts in MiFID II and PRIIPs. The compulsory warning notices and advice requirements give investors the impression that securities are toxic. That runs counter to the objective of mobilising more private capital across borders and to the goal of many European countries to motivate their populations to make more private funded provision for old age and not to rely solely on the respective state pension systems.

Furthermore, the general financial education is insufficient. As the Commission points out, financial literacy is significant to enable an increasing participation of retail investors at the capital markets. Due



to the lack of understanding of finance in general and financial instruments specifically, the risks are highlighted without also including the rewards appropriate – in addition, in the investment advice. Often Investors are uncertain, and this prevents them from investing. See also our answers to question 2.1.

However, it is of little use to the consumer to leave the education deficit, which is the responsibility of the respective national politics, exclusively to the providers of financial products at the point of sale.

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

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



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

Please select as many answers as you like

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

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

5000 character(s) maximum

Please explain your answer to question 1.6

5000 character(s) maximum

Financial literacy:

See our answer to questions 1.4, 2.1 and 2.2.

Reviewing the framework for investor categorisation:

The category of institutional investors cover a very broad spectrum of clients. In the case of pension funds, foundations and family offices, for example, treatment as professional clients within the meaning of MiFID II would make sense under certain conditions, but they do not always meet the requirements for upgrading to a professional client “on request“. Furthermore, in the case of illiquid assets it is nearly impossible to carry out an average of 10 transactions of significant size per quarter over the preceding four quarters. The existing MiFID classification of clients into retail, professional and, where appropriate, eligible counterparties does not provide an adequate and satisfying level of flexibility (see also our answer to question 7.1).



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 crucial that they are capable of understanding the risks and rewards regarding 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 difficulties 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](#), 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, particularly 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 (Disagree)	3 (Neutral)	4 (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="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
Create realistic expectations about the risk and performance of financial products	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
Increase their participation in financial markets	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Find objective investment information	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Better understand disclosure documents	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Better understand professional advice	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Make investment decisions that are in line with their investment needs and objectives	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Follow a long- term investment strategy	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>



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

An understanding and know-how of capital markets as well as financial products cannot solely be achieved by increased product transparency. Instead, early education – be it at schools and/or via common electronic platforms – is required to lay the foundation. Established and trending communication means and language should be used to reach teenagers as well as young adults.

3. Digital innovation

Digitalization, technological innovation, the increasing popularity of investment apps and web-based platforms are having profound impacts on the manner in which people invest, establishing 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 personalized 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

We feel that open finance is already reality in many areas of financial services on a voluntary basis. Many distribution channels are open to different product providers. This why we do not see that a mandatory open finance approach would necessarily lead to better financial products and services.

In addition, we do not think that the rationale of PSD II for introduction of “Open Banking” can reasonably be applied to the area of securities services and products. While payment services are highly standardised and should always lead to the same economical result (execution of the financial transaction), irrespective of the service provider, other financial services, such as asset management, are forward-looking and highly individualised.



Finally, we see unresolved issues regarding data protection and data privacy that pose a significant challenge for regulatory changes.

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

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 the 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 the presence of interest from market actors in more standardization 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 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

The term "machine-readable" is not sufficiently clear. If it means to search keywords (as it is possible in a pdf-document for example) this could be helpful for investors. In any case, it is very important that the legal requirements are aligned. The Delegated Regulation of SFDR, for example, requires that information should be provided in a "searchable electronic format".

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

Different regulatory standards for different marketing and advertising channels run the risk to impair the level playing field among competing investment products.

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

We do not see the need for stricter enforcement of rules on online advertising. Instead, it is important that all financial actors are properly regulated and licenced, rather than increasing the existing advertising requirements. Additionally, it is important to make sure that the requirements apply on equal terms for all advertising channels.

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

We do not see a need for further EU coordination/harmonisation on this topic. There are already various EU requirements for advertising and marketing of investment products which are accounted for on the level of Member States. For funds, for example, ESMA recently published the Final Report for „Guidelines on marketing communications under the Regulation on cross-border distribution of funds“ (ESMA34-45-1244). Comparable requirements exist under MiFID II (Art. 44 Delegated Regulation MiFID II). The requirements of Art. 44 are practicable, thus proving to be a suitable standard. The same level of investor protection must apply for all investment products (level playing field).

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

There is an increasing role played by social media in influencing retail investors' behaviour. Therefore, it is paramount to use social media for educational purposes around capital markets, financial instruments as well as specific use cases (e.g. saving for retirement, inflation, zero or negative interest environment) to increase awareness and know-how rather than for promoting specific products. As recent experiences show, there is a risk that retail investors and potentially especially vulnerable customers are mis-lead by inadequate promotion of investments (e.g. crypto-assets, specific stocks) by mainly unregulated parties (e.g. "celebrities", influencers – with partly unknown incentives) that entirely mis-out elaborating on the risks these investments carry as well as addressing any suitability/appropriateness concerns.

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
- Rather not 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

Online 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, the 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



We are not aware of any problems occurring whilst purchasing retail investments online. The requirements under MiFID II are adequate and protect retail investors independent of the distribution channel. In the event of any crucial problems, it is most likely a result of insufficient implementation.

It is important to avoid creating different rules for different distribution channels. Instead, the regulatory requirements must be flexible enough to ensure that they fit for all distribution situations. In addition, it is important that legal requirements are comparable for all investment products. The same level of investor protection must apply for all investment products.

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

Complexity and risks are only two of several criteria that have to be considered in order to assess whether or not a product fits for an investor. Other aspects, such as the intended holding period and the investment goals, would be neglected if products with lower risks or a simple level of complexity appear first on listings. This could lead to investors being shielded from investment products with high return potential. It is important that investors are able to understand the investment product and choose according to their needs. To achieve this, it is necessary to consider also other criteria than the risk or the complexity.

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:



Information on sustainability-aspects of the product	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
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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="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Information about the type, objectives and functioning of the product	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
Information on the risk-profile of the product, and the summary risk indicator	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
Information about product performance	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Information on cost and charges	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Information on sustainability-aspects of the product	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>

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="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Information about the type, objectives and functioning of the product	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Information on the risk-profile of the product, and the summary risk indicator	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Information about product performance	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>



Information on cost and charges	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Information on sustainability-aspects of the product	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>

Please explain your answer to question 4.2.1:

5000 character(s) maximum

So far, we have no direct practical experience with the PRIIPs-KIDs, because the PRIIPs-Regulation is not applicable for funds yet. However, from what we have seen so far in the market, we are concerned that the PRIIPs KID creates the impression of providing investors with accurate and reliable quantitative information, especially on costs and performance, whereas in reality most outcomes are based on multiple assumptions and will very likely not correspond with the performance and costs incurred by investors in future. This pertains in particular to future performance scenarios that are presented on the basis of past performance data and thus might not fit into the current market environment e.g. as regards interest rates relevant for bond funds. Investors are not sufficiently aware of the limited relevance of the PRIIPs figures.

In any case, we strongly support the ESAs' intentions to align PRIIPs cost figures with MiFID II disclosures. Due to the vast majority of funds being distributed in a MiFID II environment, it is absolutely crucial that investors receive consistent cost disclosures at the point of sale. Such cost disclosures will comprise both the PRIIPs KIDs and the ex-ante information prepared by the distributor. Hence, it is essential that the figures on product costs presented in both disclosures interrelate in a consistent way and provide investors with a meaningful overview of costs related to a specific investment service.



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

Please explain your answer to question 4.2.2:

5000 character(s) maximum

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="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
Information about the PEPP provider and its services	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
Information about the safeguarding of investments	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
Information on cost and charges	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
Information on the pay-out phase	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>



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="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
Information about the PEPP provider and its services	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
Information about the safeguarding of investments	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
Information on cost and charges	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
Information on the pay-out phase	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>

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="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
Information about the PEPP provider and its services	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
Information about the safeguarding of investments	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
Information on cost and charges	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
Information on the pay-out phase	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>



Please explain your answer to question 4.2.3:

5000 character(s) maximum

The first PEPPs can be launched at the earliest as end of March 2022.

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

We are of the opinion that the language used in the pre-contractual documents is sometimes too complicated. For KIIDs/PRIIPs-KIDs, and partly also for the prospectuses, there are many specifications and wordings that must be used. There is little leeway for own (simpler) wordings. The use of jargon and sector-specific terminology is thus already encouraged at this level. The limitation of pages for the KIID/PRIIPs-KID also promotes the use of jargon and sector-specific terminology – a paraphrase requires more words and thus space. Insofar as the language is to be simplified in order to promote the comprehensibility of information documents, it is imperative that this is taken into account in the regulatory requirements.

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

It is obvious that the retail investor must have the opportunity to obtain the Key Information Document before he makes his investment decision. However, it is also clear that he is always free to make his investment decision without taking notice of any kind of Key Information Document.

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

Due to their high degree of regulatory standardisation, Key Information Documents (within the meaning of question 4.4) allow for comparison among products of one kind. In spite of the respective efforts of the PRIIPs Regulation, this is still less the case among products of different types of provider (see our answer to question 4.6).

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

While comparability between different investment products is a desirable objective, it should be clear that full comparison is basically not possible for different kinds of investment products. Subject to this reservation, we welcome the alignment of information requirements as far as it is possible, having regard to the specific features of the respective products. In principle, this is achieved by the PRIIPs regulation. The approach for the presentation of costs to differentiate between the securities and insurance sector, for example, is exactly right. Comparability should only be striven for as long as it does not compromise the accuracy of information and has no potential to mislead investors.

It is thus important not to suggest to the investor that there is full comparability across different investment products. This would not be helpful at all from the point of view of investor protection. Rather, it is important that investors understand the different products.

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

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

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

5000 character(s) maximum

We strongly support the ESAs' intentions to align PRIIPs cost figures with MiFID II disclosures. Due to the vast majority of funds being distributed in a MiFID II environment, it is absolutely crucial that investors receive consistent cost disclosures at the point of sale. Such cost disclosures will comprise both the PRIIPs KIDs and the ex-ante information prepared by the distributor. Hence, it is essential that



the figures on product costs presented in both disclosures interrelate in a consistent way and provide investors with a meaningful overview of costs related to a specific investment service.

However, we see major problems with presentation of relative costs as monetary amounts based on a number of assumptions. The difficulty can be best illustrated by reference to the presentation of performance fees for funds under MiFID II and PRIIPs. The current market standard under MiFID II is presentation of costs assuming a net zero performance over the relevant time period. The same approach is proposed to be applied for the PRIIPs cost calculations under the final ESA report from July 2020. While appreciating the intended alignment of product cost calculations under both frameworks, we are concerned about the implications of this approach for the overall comprehension by investors. Performance fees have to be calculated under PRIIPs as the average of the last five years, i.e. by reference to fees accrued on the basis of the actual fund performance. However, if such average is shown under the scenario of zero net performance, investors will likely get the impression that performance fees will in any case drag down the net yield of their investment, even though in such circumstances performance fees will never be incurred.

In our view, it is essential to inform investors about the key features of a product by explaining the general mechanism of calculating and charging performance fees in line with the current practice in the UCITS KIID. Presentation of specific monetary figures might appear plain and easy to understand at a first glance, but will never reflect accurately the actual amount of charges that will be incurred in future by the individual investor.



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

We are not aware of any problems in practice.

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

In general, we have always argued in favour of including past performance in the PRIIPs KID as the only reliable performance-related information for investment funds. We maintain our argument that future performance scenarios are not suitable for non-structured UCITS and AIFs, regardless of whether or not such scenarios are derived from past performance data. We appreciate that the ESAs have attempted to reduce the past performance bias on scenarios by extending the reference period for the relevant past performance in the PRIIPs calculations. However, it is quite foreseeable that such extension beyond the recommended holding period will lead to other distortions, e.g. by reference to prices from a different interest rate environment that will skew the performance scenario calculations for bond funds.

For PRIIPs with performance directly linked to their underlying assets, such as non-structured UCITS and AIFs ("linear products"), future performance scenarios impede the PRIIPs KID's objective of describing investment products in a fair, clear and not misleading way, as such scenarios will necessarily incorporate a certain market view, which could be seen by many retail investors as a firm promise of return. The disclosure of past performance is well-tested for UCITS. It clearly is not a guarantee for the future, but gives an indication of how the fund has operated in the past vis-à-vis a relevant benchmark. It is factually correct and cannot be gamed because it is presented in a standardised way.

Therefore, we maintain that future performance scenarios are not suitable for linear products. Presentation of past performance data in the UCITS KIID needs to be supplemented by a prominent



warning about the limited relevance of past performance highlighting that it is not a reliable indicator of future results. For this reason, we insist on our long-standing demand (which is shared by investor representatives) that past performance should be the only performance indicator for linear products in line with the current UCITS KIID framework.

We have always argued that a switch to past performance as a stand-alone approach to performance information could be allowed for linear PRIIPs on the basis of the current Level 1 text. Article 8(3)(d)(iii) PRIIPs Regulation refers to disclosure of “appropriate performance scenarios” which does not necessarily imply future scenarios. Rather, the reference to “appropriate scenarios” gives discretion to the ESAs to develop adequate concepts for different categories of PRIIPs. However, should the Commission and the ESAs feel unable to exploit this opportunity, we strongly suggest amendments to the Level 1 Regulation explicitly allowing for the sole presentation of past performance for linear products in the PRIIPs KID which should be presented a part of the PRIIPs review.

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 c), and indicate which information documents are concerned:

5000 character(s) maximum

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="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
Costs	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
Past performance	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
Guaranteed returns	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
Capital protection	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>



Forward-looking performance expectation	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Risk	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
Ease with which the product can be converted into cash	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>
Other	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>

Please specify to what other type(s) of product information you refer in your answer to question 4.8

5000 character(s) maximum

Please explain your answer to question 4.8

5000 character(s) maximum

Of course, the term "essential" only applies insofar as the respective feature is present at all (e.g. capital protection). Information on "forward-looking performance expectation" always creates the impression of a more or less reliable prediction of the future, which is obviously not possible.

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

We consider ex-post cost information, as already required by MiFID II, to be meaningful. However, this should also apply to all kinds of investment products. The aim should be to create a level playing field and to provide investors with comprehensive information across all investment products they are invested in.



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

We are of the opinion that the existing page limits for the PRIIPs KID should be maintained. A focus on words does not make sense because of the peculiarities of the different languages. It would also encourage the use of jargon. In any case, it is crucial for the investor is able to understand the information. In addition to the investor's financial education as a precondition for his receptiveness, it is important that the KIID is not overloaded with unnecessary information. We therefore suggest reviewing which information is of particular interest to the investor and, if necessary, revising the mandatory content of the PRIIPs KID.

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

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

We believe it is reasonable to make the information documents available in electronic format as a matter of principle. This is appropriate from both a sustainability and an investor point of view. However, investors should have the right to receive information in paper format as well. The recent change in MiFID II (in electronic format by default and paper upon request) should apply equally to all regulatory requirements (e.g. IDD, UCITS, PRIIPs).

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

We are of the opinion that the KIID should be available in the national language if an investment product is distributed in the respective country. However, in our view, it is not necessary to publish other information documents (e.g. prospectus) in the national language. An English version should be sufficient. This is also in line with the current UCITS requirements.

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

Management companies are already obliged to publish information documents on their websites. This should apply to all manufacturers of investment products in the same way.

As already explained in our answer to question 4.10, it is necessary for readability and intelligibility not to overload the documents.

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="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
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="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Format of the information is adapted to use on different kinds of device (for example through use of layering)?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
Appropriately labeled and relevant hyperlinks are used to provide access to supplementary information?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>



Use of hyperlinks is limited (e.g. one click only – no cascade of links)?	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Contracts cannot be concluded until the consumer has scrolled to the end of the document?	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Other ?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>

Please specify to what other important element you refer in your answer to question 4.15
5000 character(s) maximum

Please explain your answer to question 4.15:
5000 character(s) maximum

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 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

While comparability between different investment products is a desirable objective, it should be clear that full comparison is basically not possible for different kinds of investment products. Subject to this reservation, we welcome the alignment of information requirements as far as it is possible, having



regard to the specific features of the respective products. In principle, this is achieved by the PRIIPs regulation. The approach for the presentation of costs to differentiate between the securities and insurance sector, for example, is exactly right. Comparability should only be striven for as long as it does not compromise the accuracy of information and has no potential to mislead investors.

It is thus important not to suggest to the investor that there is full comparability across different investment products. This would not be helpful at all from the point of view of investor protection. Rather, it is important, that investors understand the different products.

In order to improve investors' understanding of fund investments, we see the need for:

- Amending performance-related information in order to allow disclosure of past performance instead of future performance scenarios for linear products such as non-structured UCITS and AIFs (see our answer to question 5.3).
- Amending cost disclosures in order to permit objective and unbiased information on cost components charged in relation to the fund performance, i.e. performance fees (see our answer to question 5.3).

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

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

Please explain your answer to question 5.1 b):

5000 character(s) maximum

As the PRIIPs regulation does not apply to funds at present, we can only assess this to a limited extent, but see also our answer to question 5.1 a).

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

We have no information on this. However, there are no indications of a general mis-selling problem with funds.

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

As the PRIIPs regulation does not apply to funds at present, we can only assess this to a limited extent. In general, we do not expect any significant improvements regarding the quality of information deriving from PRIIPs KIDs as compared to the UCITS KIID. The latter is already based on an advanced information standard, successfully striving for a concise presentation of the key facts about a given UCITS, which rightfully served as the blueprint for the PRIIPs standard. The main disadvantage of the UCITS KIID is that it provides comparability among UCITS (and like investment funds on a national level) only. In comparison, the key achievement of the PRIIPs KID lies in the broadened scope of investment products covered.

Both UCITS KIID and PRIIPs KID still lack meaningful information on ESG features of the investment products.

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

Management companies are already obliged to publish information documents on their websites. This should apply to all manufacturers of investment products in the same way.

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="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
Requiring PRIIPs KIDs and PEPP KIDs to be uploaded onto a searchable national database	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
Requiring PRIIPs KIDs and PEPP KIDs to be made available in a dedicated section on manufacturer and distributor websites	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>



Other	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
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Please specify to what other improvement(s) you refer in your answer to question 5.2.1:

5000 character(s) maximum

Please explain your answer to question 5.2.1:

5000 character(s) maximum

We do not think an EU-wide database for KIDs is necessary. On the website of the manufacturer the potential investor will not only find the KID, but also further information. This serves to provide comprehensive information and supports the investor's decision. Pulling out the KIDs separately would possibly cut investors off from the more comprehensive information. In addition, both trading platforms and advisers will regularly provide investors with the relevant KIDs.

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

In order to improve investors' understanding of fund investments, we see the need for:

Amending performance-related information in order to allow disclosure of past performance instead of future performance scenarios for linear products such as non-structured UCITS and AIFs: For PRIIPs with performance directly linked to their underlying assets, such as non-structured UCITS and AIFs ("linear products"), future performance scenarios impede the PRIIPs KID's objective of describing investment products in a fair, clear and not misleading way, as such scenarios will necessarily incorporate a certain market view, which could be seen by many retail investors as a firm promise of return. The disclosure of past performance is well-tested for UCITS. It clearly is not a guarantee for the future, but gives an indication of how the fund has operated in the past vis-à-vis a relevant benchmark. It is factually correct and cannot be gamed because it is presented in a standardised way.

Therefore, we maintain that future performance scenarios are not suitable for linear products. Presentation of past performance data in the UCITS KIID needs to be supplemented by a prominent



warning about the limited relevance of past performance highlighting that it is not a reliable indicator of future results. For this reason, we insist on our long-standing demand (which is shared by investor representatives) that past performance should be the only performance indicator for linear products in line with the current UCITS KIID framework.

Amending cost disclosures in order to permit objective and unbiased information on cost components charged in relation to the fund performance: Performance fees have to be calculated under PRIIPs as the average of the last five years, i.e. by reference to fees accrued on the basis of the actual fund performance. However, if such average is shown under the scenario of zero net performance, investors will likely get the impression that performance fees will in any case drag down the net yield of their investment, even though in such circumstances performance fees will never be incurred.

In our view, it is essential to inform investors about the key features of a product by explaining the general mechanism of calculating and charging performance fees in line with the current practice in the UCITS KIID. Presentation of specific monetary figures might appear plain and easy to understand at a first glance, but will never reflect accurately the actual amount of charges that will be incurred in future by the individual investor.

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 54:

5000 character(s) maximum

There is a major discrepancy as regards the actual implementation of the PRIIPs disclosure requirements for unit-linked insurance investment products across the EU. In some Member States, insurers inform about the underlying investment options in such products, i.e. individual funds, simply by referring to the relevant UCITS KIIDs. In other markets, especially in Germany, insurers have developed a more sophisticated approach that requires adaptations of the fund-level information in order to account for the specificities of the insurance wrapper. This pertains in particular to the payment of regular premia (instead of one-off investment amount generally relevant for funds) and the recommended holding period of the insurance product.

While the latter approach might be preferable at a first glance, it creates a lot of problems in terms of practical implementation. These problems will likely be aggravated under the revised PRIIPs RTS that require historical price data exceeding the recommended holding period by five years for the purpose of performance scenario calculations. In view of 30 or 40 years RHP common in insurance products, such calculations were neither feasible nor would they produce meaningful results. On the other hand, with the pending expiry of the fund exemption from the PRIIPs framework, all funds distributed in the retail market will provide PRIIPs KIDs for direct fund investments. In our view, these fund-level PRIIPs KIDs should be used also by insurance companies in order to inform their clients about the key features of funds that can be selected for investment in the insurance wrapper.



Question 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

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

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

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

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

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

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

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



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

Please specify to what other factor(s) you refer in your answer to question 5.8

5000 character(s) maximum

Costs for financial market data.

Please explain your answer to question 5.8:

5000 character(s) maximum

The first five items require complex and therefore costly operational processes. We would like to focus on the last item –costs for financial market data – which stand for a significant expense item but tend to be overlooked.

Financial market data are often offered by natural monopolies and oligopolies such as stock exchanges and companies with a dominant market position. These have great market power and can set one-sided conditions, since the users on the asset manager side rely on such data and any disruption would jeopardise their business. The use of financial market data has therefore for years been associated with regular, sometimes massive price increases and the conclusion of increasingly complex data licences for the asset managers. With increasing cost pressure and the change of business models to more quantitative or passive investment, data costs are becoming more and more a success factor for many asset managers. The BVI advocates a revision of the existing EU regulations for the provision and use of financial market data on appropriate commercial terms, e.g. in MiFID/MiFIR, CRAR, and an implementation of data user effectively protective regulations, e.g. in the BMR and the various EU regulations on regulatory reporting. Data charges should be determined on the basis of the marginal cost of producing and disseminating the data. Also basic data elements required for use EU regulatory reporting such as market price (MIFIR/SFTR), indices (BMR), ratings, (CRAR) identifiers / reference data and ESG data (CSRD, EU-Taxonomy, SFDR, ESAP) should be made available in licence and fee free databases such as the European Rating Platform (ERP) operated by ESMA. The EU Commission recently announced plans for a European Consolidated Tape on bond and equity prices as well as the European Single Access Point for financial and non-financial corporate data. Additionally, expanding the ESMA Benchmark register to a full European index database would be most helpful to the users of such data required by supervisory law. To enable users to access such data both from EU open data bases as described as well as directly on the websites of the respective data sources implementing regulation needs to provide for the respective EU bodies to set standardised terms of use of such data and databases, including the right to unencumbered and perpetual internal use as well as liability for the correctness of the data. The EU Database Regulation needs to be limited in its scope as it prevents the use of open EU databases based on contributed private sector data as demonstrated by the usage restrictions imposed by the CRAs on the European Rating Platform operated by ESMA.

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

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? If so, why?

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 illustrating 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

The PRIIPs KID is a pre-contractual information document and is intended to support the investor in his investment decision. The provision of outdated versions of the PRIIPs KID does not help for this decision and may even be confusing for the investor. As a matter of fact, providing outdated information to (potential) investors might pose a liability risk to the PRIIPs provider.

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

Please explain your answer to question 5.12:

5000 character(s) maximum

The 12 months period strikes the right balance between up-to-dateness and continuity of information.

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



We have not encountered any deficits in this regard.

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

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



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

See our answer to question 6.8 – complexity test for retail AIFs

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

The requirements are suitable and sufficient for all distribution channels. If there are problems, we believe that this is not due to a lack of requirements, but to the practical/technical implementation. Instead of tightening the rules, the Commission should ensure that the requirements are complied with by financial market participants.

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

Investor protection regulation must start from the model of the responsible citizen. It would be presumptuous if such regulation would impose higher hurdles than a clear warning for retail investors to purchase products which are not considered appropriate for them. A prohibition to buy a financial instrument should therefore not be provided under any circumstances. The task of investor protection regulation is education, not paternalism.



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

MiFID II deliberately differentiates between complex and non-complex products. Access to products and participation in the capital market would be made more difficult for investors if an appropriateness test were also required for such non-complex products.

In this context we would like to emphasise another topic. We consider ESMA's assessment incorrect, that all alternative investment funds ("AIFs") are obligatory complex without recourse to an individual complexity test (see ESMA MiFID II / MIFIR Investor Protection Q&A, Section 10, Question 1). ESMA refers to Recital 80 of MiFID II, according to which AIF "shares" are generally regarded as complex. However, this and the relevant rule in Art. 25(4)(a)(i) MiFID II, which explicitly mentions AIFs, only prevent shares in AIFs from being considered as non-complex solely because they are listed on a stock exchange. Otherwise, the legislator would not only have spoken of "shares in AIF" but – as elsewhere – of "shares or units in AIF". Moreover, the legislator would have structurally transformed this regime into a regime together with that applicable to UCITS and not into that applicable to listed shares. This is because listed shares in AIFs are in practice rather the exception than the rule. In effect, the blanket classification is also inappropriate. The category of AIFs covers a wide variety of fund vehicles, ranging from strictly regulated and supervised mutual funds which differ from UCITS investment policies only in certain details (e.g. so called „Gemischte Sondervermögen“ under the German investment law (“Kapitalanlagegesetzbuch”)), to funds for professional investors which are not subject to investment restrictions (including hedge funds). In order to take account of this diversity and not to bring AIFs in a worse position than investment products without risk spreading and prudential supervision, but with issuer risks (e. g. equities), AIFs should have access to the complexity test under Art. 57 of the MiFID II Implementing Regulation. This would allow an individual classification based on the characteristics of the respective product.

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

We haven't discovered any deficits in this area.

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



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? If so, how might they be addressed?

- 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

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

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="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Adjusting the definition of professional investors on request	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>



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

5000 character(s) maximum

Both possibilities could work: The introduction of a new client category of "semi-professional clients" or a revision of the criteria for the classification of professional clients "on request".

Certain institutional investors cover a very broad spectrum of clients. In the case of pension funds, foundations and family offices, for example, treatment as professional clients within the meaning of MiFID II would make sense under certain conditions, but they do not always meet the requirements for upgrading to a professional client "on request". Furthermore, in the case of illiquid assets it is nearly impossible to carry out an average of 10 transactions of significant size per quarter over the preceding four quarters. The existing MiFID classification of clients into retail, professional and, where appropriate, eligible counterparties does not provide an adequate and satisfying level of flexibility. On the contrary, European requirements in the EuSEF and EuVECA Regulations already show that there is a need for further differentiation of investor types. A new category of a "semi-professional investor" would therefore be a possible solution. The classification of investors should be based on the requirements of the EuSEF/EuVECA Regulations. In any case, varying definitions in the different legal requirements must be avoided. Alternatively, the requirements for professional clients "on request" could be revised. In many cases, there is a concern that mistakes will be made in the process of upgrading to a professional client „on request“, leading to liability risks, as the criteria are not sufficiently clearly defined. For this reason, the possibility of upgrading is often not used, although it would also be in the interest of potentially professional clients "on request". Pension funds, pension schemes, foundations and family offices should be able to be classified as professional clients "on request". This could also be achieved by revising the existing criteria. Please see question 7.2.

In this context, we suggest revising the criteria for professional clients "per se" (Paragraph I of Annex II to MiFID II).

Criterion 2 says: „Large undertakings meeting two of the following size requirements on a company basis:“

We propose replacing the term „undertakings“ with „entities“. Currently it is not clear whether all large entities would fall under this type of investors. This would e.g. clarify that large family offices would fall under this category.

Criterion 3 says: „National and regional governments, including public bodies that manage public debt at national or regional level...“

It is not clear why this should be limited to management of public debt. We propose to add the following:



„National and regional governments, including public bodies and that manage public debt or funds at national or regional level...”

Criterion 4 says: “Other institutional investors whose main activity is to invest in financial instruments, including entities dedicated to the securitisation of assets or other financing transactions.”

The category is generally very broad, but due to the additional sentence it is unclear what type of investors could be covered. We suggest a clear threshold which would also cover e.g. large family offices. The wording of the criterion should be as follows: “Other institutional investors whose main activity is to invest in financial instruments, managing a portfolio of at least EUR 10 Million.”

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

Please specify to what other criteria to measure a client’s experience you refer in your answer to question 7.2 a)

5000 character(s) maximum

See our answer to question 7.2.c).

Please explain your answer to question 7.2 a):

5000 character(s) maximum

In the case of illiquid assets, for example, it is nearly impossible to meet this criterion, so it is not suitable for the classification of a client as a professional client “on request”.

Instead of focusing solely on the number of transactions, larger-volume transactions should also be taken into account (see our answer to question 7.d).

Additionally it could be an idea to expand the time component of transactions in assessing experience (e.g. from 12 to 60 months). Experience is gained over time and remains afterwards. Some experience even becomes more nuanced over a longer period of time (e.g. how to react in different market situations).

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

Please specify to what other criteria to measure a client's capacity to bear loss you refer in your answer to question 7.2 b)

5000 character(s) maximum

Please explain your answer to question 7.2 b):

5000 character(s) maximum

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

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

Please specify to what other criteria to measure a client's financial knowledge you refer in your answer to question 7.2 c)

5000 character(s) maximum

Please explain your answer to question 7.2 c):

5000 character(s) maximum

The existing criterion is clearly too narrow. There are a large number of clients who do not qualify as working in the "financial sector", but who undoubtedly have professional expertise equivalent to that. Family offices, pension funds, asset managers, corporate treasurers, municipal treasurers and



foundations, among others, should be given sufficient consideration here. We therefore recommend extending the options of proving the necessary expertise. For example, the criterion could be supplemented with „... or has worked in fields that involve financial expertise for at least 3 years or has managed a portfolio of more than EUR 200.000 over the last five years or is holding an academic degree in economics or finance.”

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

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

Please specify to what other criteria to assess a client's ability to make informed investment decisions you refer in your answer to question 7.2 a)

5000 character(s) maximum

Evidence of high (e.g. 100,000 €) individual transactions in the past.

Please explain your answer to question 7.2 d):

5000 character(s) maximum

Overall it is important that if a fourth criterion is implemented, it must be sufficient if an investor meets two of them.

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

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

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

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

5000 character(s) maximum



Please explain your answer to question 7.3

5000 character(s) maximum

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



An obligation to disclose the amount of inducement paid	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Allowing inducements only under certain conditions, e.g. if they serve the improvement of quality	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
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="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
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="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Introducing a ban on all forms of inducements for every retail investment product across the Union	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>

Please explain your answer to question 8.1

5000 character(s) maximum

We consider the measures marked as “somewhat” or “very effective” as beneficial in general terms. It must be noted that this assessment must not be understood as a call for further regulatory measures in the respective fields. To the contrary: We are convinced that MiFID II has already implemented very effective safeguards against biased advice.

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

It would clearly reduce the availability of both advice and suitable investment products. See FCA study of Dec 2020.

The criticism of inducements is based on the assumption that commission-based investment advice is of inferior quality compared to fee-based investment advice (so-called independent investment advice), because the commissions paid to the advisor may lead to conflicts of interest. We do not share this view; on the contrary, both advisory models must continue to coexist.

Investment advice is not automatically better just because it is paid with a fee instead of a commission. The idea of strengthening fee-based investment advice stems from a time when it was not sufficiently clear to clients where and which commissions are paid. As a result of the disclosure requirements introduced by MiFID II, the types and quantities of commissions are now clearly presented to the clients so that they can make their decisions freely in the knowledge of this. It goes without saying that the interests of the client are also taken into account by the advisor in any commission-based investment advice: on the one hand, this is stipulated in Art. 27 MiFID II Delegated Regulation in conjunction with Art. 16, 23 and 24 MiFID II; on the other hand, the advisor also has an interest on her or his own in advising the clients in line with their interests because after all she/he wants the client to come back. Furthermore, it is a common misconception that fee-based advisors are free of conflicts of interest. For example, an advisor might restructure a portfolio because he or she can generate additional fee-based advice.

Clients should be free to decide which type of investment advice they wish to make use of. The fact that clients often do not want to receive investment advice on a fee basis is not recognised. In Germany for example the demand for this type of investment advice as an alternative is very low. If one type is abolished in order to promote the other, clients are deprived of their freedom of choice. Here too, however, it is true that clients being patronised does not equal protection of clients.

Commission-based investment advice can be very beneficial for retail investors, particularly for those with smaller amounts of money to invest. Since commissions are based on the investment amount, the advice can be offered to investors with small amounts as well as to investors with higher amounts. With fee-based investment advice, on the other hand, it is to be expected that advisors will concentrate on wealthy clients. Access to advice for less wealthy clients will therefore be cut off. From the perspective of many clients, fee-based investment advice is also likely to be extremely expensive in relation to the concrete investment amount because the fee is set in absolute terms. It is to be feared that retail investors with smaller amounts will no longer make use of an investment advice service of their own accord. This would counteract one of the objectives of the Retail Investment Strategies, namely to facilitate access to the markets for retail clients. Retail investors might be tempted to invest money by way of execution only instead of following individual advice tailored to their needs. This entails a considerable risk, especially for inexperienced investors.

These assumptions are supported by the “Evaluation of the impact of the Retail Distribution Review and the Financial Advice Market Review” of the FCA published in December 2021. For example: “Our firm survey shows that even firms without a formal minimum threshold generally have high average pot sizes among their current customers. This indicates that access to advice is, in practice, limited for consumers with smaller pots.” (p. 33)

The report shows that fee-based investment advice does not only fail to solve but also generates additionally new problems.

Commission-based investment advice also offers another advantage: Clients can obtain advice from different advisors several times before investing without incurring additional costs. Clients who have to pay a fee would certainly refrain from doing so. In addition, clients can decide against an investment after receiving advice without incurring any costs. Abolishment of commission-based investment advice would also create a further distortion of competition compared with insurance distribution regulation, where commission-based advice is still permitted – even under less stringent regulatory conditions than under MiFID II.



The coexistence of commission-based investment advice and fee-based investment advice is proven and tested, creates choice for clients and ensures that all clients have access to high-quality investment advice. Knowing all the costs involved, the mature investor can decide which type of investment advice he/she wants to take advantage of. We therefore expressly oppose a ban on commission-based investment advice.

b) what impacts would this have on the quality of advice for retail investors?

Please explain your answer:

5000 character(s) maximum

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

d) what impacts would this have on how much retail investors would invest in financial instruments?

Please explain your answer:

5000 character(s) maximum

Clearly they would invest much less, which runs counter the EU objectives to increase retail investor participation in the capital market. The FCA study mentioned above shows that people who do not receive assistance are by far more likely to leave their money in their cash accounts than to invest it (Chapter 2, para 2.17).

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 checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
In the case of insurance-based investment products distributed under the IDD framework?	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>



In the case of inducements paid to providers of online platforms/comparison websites?	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
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Please explain your answer to question 8.3

5000 character(s) maximum

The IDD requirements are significantly less ambitious than those of MiFID II. This fact creates an unlevel playing field by which advisers might be tempted to direct investors into insurance products. This outcome is not necessarily in the best interest of the investors.

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

Comparable regulatory standards are necessary in order to avoid an unlevel playing field to the detriment of the investor. See also our answer to question 8.3.

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

Please explain your answer to question 8.5:

5000 character(s) maximum

These goals have already been fully achieved with the requirements of MiFID II. See also our answer to question 8.1.

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 yes, please detail the changes you would consider relevant?

5000 character(s) maximum

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

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

Already today in Germany, the staff of investment firms providing investment advice and other relevant information must complete a bank or insurance-related vocational education or academic studies and are subject to ongoing training and qualification requirements. Therefore, in Germany, the staff must already meet certain qualifications; an additional certificate is not necessary. Supervision is carried out by the National Competent Authority BaFin. We do not see any need for an EU-wide framework for a uniform certification, neither do we see any benefit. A test or exam can be very superficial, then such a certification would have no added value. An in-depth exam, on the other hand, makes only limited sense: although the same legal framework conditions apply within Europe, there are differences in the Member States. Open-ended real estate funds can be mentioned as an example for the German market. These funds, which are in strong demand in Germany, play a subordinate role in other EU member states. Hence, the focus of the necessary qualifications of the staff providing investment advice and other relevant information can vary greatly within the EU.

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

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

The effective protection of retail investors relies on uniform regulatory standards for both classic and robo advisory. Since such uniform standards are currently in place, we consider retail investors sufficiently protected.



Question 8.10 The use of robo-advisors, while increasing, has not taken off as might have been expected and remains limited in the EU. What do you consider to be the main reason for this?

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

Please specify to what other reason(s) you refer in your answer to question 8.10:

5000 character(s) maximum

The concept of robo-advisory is still in its early stages. To date, the product range is not yet granular enough. Furthermore, robo-advisory tends to appeal more to the younger investors who, on average, do not yet have as much investable wealth as older people.

Please explain your answer to question 8.10:

5000 character(s) maximum

Question 8.11 Are there any unnecessary barriers hindering the take-up of robo- advice? If so, which measures could be taken to address them?

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

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

5000 character(s) maximum

We do not see any barriers.

Please explain your answer to question 8.11:

5000 character(s) maximum

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

Too many already in place – see ESMA stance that retail AIFs are, by definition, complex (see also our answer to question 1.2.).

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 investor:

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

Please explain your answer to question 9.2 a):

5000 character(s) maximum

It is important to avoid creating different rules for different distribution channels. Instead, the regulatory requirements must be flexible enough to ensure that they fit for all distribution situations. In addition, it is important that legal requirements are comparable for all investment products. The same level of investor protection must apply for all investment products.

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

From our point of view the existing requirements are adequate. As we have already stated in our answer to question 6.7, investor protection regulation must start from the model of the responsible citizen. The task of investor protection regulation is education, not paternalism.



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

We are not in favour of developing a new label for simple products. It is unclear what this label is supposed to achieve. Is the label intended to encourage investors to invest more in simple products? If investors were steered toward simpler products, they would also be shielded from higher return potential. As pointed out in our answer to question 3.11, complexity is only one of several criteria that have to be considered in order to assess whether or not a product fits for an investor. It is important that investors are able to understand the investment product and choose according to their needs.

In addition, as there is already a large number of labels, further labels ultimately lead to an abundance which in the end might confuse investors rather than helping them making informed investment decisions.

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

See our answer to question 9.1.c).

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

See our answer to question 9.1.c).

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

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

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

We are not aware of any problems

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

To our knowledge, financial products and services providers are comprehensively publishing information on how to engage in alternative dispute resolution procedures.

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

To our knowledge, the majority of complaints and disputes are already resolved via alternative dispute resolution procedures.

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

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.

Question 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

This is an undue discrimination of those clients who would not be considered "more vulnerable". Furthermore, it is not clear how to define vulnerable clients.

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

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

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

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="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
An investment that reduces the harm on the environment and society (e.g. environmental pollution, child labour etc.)	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Financial returns	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>

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="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
Measurements demonstrating negative or low sustainability impacts of investments	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
Information on financial returns of sustainable investments compared to those of mainstream investments	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
Information on the share of financial institutions' activities that are sustainable	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
Require all financial products and instruments to inform about their sustainability ambition	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
Obligation for financial advisers to offer at least one financial product with minimum sustainability ambition	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
All financial products offered should have a minimum of sustainability ambition	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>

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

Please specify to what other factor(s) you refer in your answer to question 12.3:

5000 character(s) maximum

A harmonised understanding of the legal definitions should help to avoid national specificities. The fear of greenwashing should be eliminated by more detailed regulation already in the pipeline (SFDR, Taxonomy, Delegated Regulation MiFID II). But it is very important that the existing regulations are consistent.

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



In principle, guidance is helpful, but in our opinion there is already enough guidance to support financial advisers. In addition, advisory processes can only be standardised to a limited extent, so too much standardisation would not be helpful at this point. The requirements of the Delegated Regulation MiFID II are now being implemented in the advisory process; additional requirements for advisors would come at a time when their own concepts already exist. Therefore, we would prefer to wait and see how the new requirements are implemented.

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

Investment research under MiFID II/ MiFIR is focused on the financial analysis of financial instruments. While we agree that sustainability risk should be relevant for such analysis in any case and generally taken into account, this does not apply to other ESG factors the relevance of which depends on the type of the recommended investment strategy and the individual preferences of investors.

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?

5000 character(s) maximum

Savings plans on funds are very popular in Germany – they are often used as an additional private pension plan. Therefore, savings plans are particularly important in the current long-time period of low interest rates.

We fear that further bureaucratic requirements will be implemented on distributors and retail investors when conducting savings plans (and potentially even on savings plans that have been conducted years ago) when the PRIIPs Reg. will apply to funds by January 2022. This must be avoided.

In Germany distributors are obliged to provide the KIID only when conducting the saving plan, see § 297 para 7 sentence 2 Kapitalanlagegesetzbuch (German investment law):

"Werden Anteile oder Aktien im Rahmen eines Investment-Sparplans in regelmäßigem Abstand erworben, so sind die Absätze 1, 2, 5 Satz 1 und Absatz 6, soweit sie Informationspflichten gegenüber dem am Erwerb eines Anteils oder einer Aktie Interessierten betreffen, nur auf den erstmaligen Erwerb anzuwenden."

The KID must be made available only prior to the conclusion of the savings plan and is not required in relation to the periodic subscriptions.

Under Art. 13 (4) PRIIPs Reg. distributors would be obliged to provide a KID when conducting the savings plan and afterwards, every time the KID has been modified according to the requirements of Art. 10 PRIIPs Reg. The latter requirement goes beyond the current requirements (at least in Germany).

As we have mentioned above, savings plans on funds are very popular in Germany. For instance, one large German fund manager alone has a total of some 4.5 million savings plans in portfolio. Most of these contracts have been concluded years ago. Due to the fact that funds will fall into the scope of the PRIIPs Reg. and therefore, Art.13 (4) PRIIPs Reg. will apply, many banks and savings banks currently only enter into a savings plan if the client opens an electronic mail box allowing to provide the KID electronically. In the past, there has been no reason to open an electronic mailbox when conducting a savings plan (since the KIID under the current regime only needs to be provided once). That is why many clients do not have an electronic mailbox. In the case of the fund manager with 4.5 million savings plans electronic communication via an electronic mailbox has been agreed with only 21% of the clients. This would mean, that the KIDs for more than 3.5 million savings plans need to be sent by post (whenever there is a change in the KID) if a more flexible approach is not allowed. This is not only very burdensome, but would cause very high costs.

Solution without disadvantage for investors:

In the "Draft Final Report following consultation on draft regulatory technical standards to amend the PRIIPs KID" the ESAs have recommended to introduce two measures (p. 43/44).

We strongly support the ESAs' proposal to allow distributors to inform the client where the revised KID can be found; enabling the client to get the latest version of the KID whenever he wants to. That would prevent distributors from sending millions of letters every time the KID has been modified.

Furthermore this aligns with the current market practice in Germany: investors can generally either download an up-to-date version of the UCITS KIID via their online banking service, from the manufacturer's website or they can contact their distributors and receive the KIID there. This procedure takes sufficient account of investor protection without unduly overburdening the administration of saving accounts. We assume that a comparable approach exists in the other member states.

From our point of view, such a rule could be introduced on Level II (i. e. in Art. 17 PRIIPs-DelReg "Conditions on good time" or in the specific provisions for UCITs and AIFs, Chapter IIa of the ESAs draft RTS). Therefore, there would be no need to modify Level I.

Having in mind that millions of savings plans have been conducted under the assumption that the investor only needs to be informed once in the beginning, we also strongly support the additional idea of implementing a grandfathering provision stating that Art.13 (4) PRIIPs Reg. only applies to savings plans on funds that have been conducted after 31 Dec. 2021. This would allow distributors to take all



precautions to allow an efficient provision of the KIDs (basically agreeing on an electronic mailbox). Such a grandfathering provision was also brought up by the ESAs, as an alternative. In this case, too, investors always have the option of receiving an up-to-date KIID, as shown under a). The procedure has therefore been successfully applied in Germany since 2013 without any concerns in terms of investor protection.

Both measures would definitely help market participants a lot implementing PRIIPs on funds. Therefore, we would be very grateful if you would support both options proposed by the ESAs.
