

Public consultation on a retail investment strategy for Europe

Fields marked with * are mandatory.

Introduction

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

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1. Background for this consultation

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

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

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

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

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

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

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

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

Responding to this consultation and follow up

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

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

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

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

More information on

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

About you

* Language of my contribution

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

* I am giving my contribution as

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

* First name

Thomas

* Surname

Wulf

* Email (this won't be published)

wulf@eusipa.org

* Organisation name

255 character(s) maximum

EUSIPA (European Structured Investment Products Association)

* Organisation size

- Micro (1 to 9 employees)
- Small (10 to 49 employees)
- Medium (50 to 249 employees)
- Large (250 or more)

Transparency register number

255 character(s) maximum

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

37488345650-13

* Country of origin

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

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| <input type="radio"/> Åland Islands | <input type="radio"/> Dominica | <input type="radio"/> Liechtenstein | <input type="radio"/> Saint Pierre and Miquelon |
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- Belize
- Benin
- Bermuda
- Bhutan

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

- Burkina Faso
- Burundi

- Cambodia

- Cameroon
- Canada
- Cape Verde
- Cayman Islands

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

- Grenada
- Guadeloupe

- Guam

- Guatemala
- Guernsey
- Guinea
- Guinea-Bissau

- Guyana

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

- Hungary

- Iceland
- India
- Indonesia
- Iran

- Iraq

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

- Namibia
- Nauru

- Nepal

- Netherlands
- New Caledonia
- New Zealand
- Nicaragua

- Niger

- Nigeria
- Niue

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

- Palau

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

- Syria

- Taiwan
- Tajikistan
- Tanzania
- Thailand

- The Gambia

- Timor-Leste
- Togo

- Tokelau
- Tonga

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

- Uganda
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| <input type="radio"/> Denmark | <input type="radio"/> Liberia | <input type="radio"/> Saint Lucia | |

* Field of activity or sector (if applicable)

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

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

- Social entrepreneurship
- Other
- Not applicable

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

* Contribution publication privacy settings

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

Anonymous

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

Public

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

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

1. General questions

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

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

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

Please explain your answer to question 1.1 and provide examples:

5000 character(s) maximum

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

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

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

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

Please explain your answer to question 1.2:

5000 character(s) maximum

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

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

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

Please explain your answer to question 1.3:

5000 character(s) maximum

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

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

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

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

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

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

Please select as many answers as you like

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

Please explain your answer to question 1.6:

5000 character(s) maximum

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

2. Financial literacy

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

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

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

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

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

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

5000 character(s) maximum

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

3. Digital innovation

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

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

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

Please explain your answer

5000 character(s) maximum

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

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

Please explain your answer

5000 character(s) maximum

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

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

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

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

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

Please explain your answer to question 3.3:

5000 character(s) maximum

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

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

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

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

Please explain your answer to question 3.4:

5000 character(s) maximum

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

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

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

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

Please explain your answer to question 3.5:

5000 character(s) maximum

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

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

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

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

5000 character(s) maximum

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

While EUSIPA does not take a position on whether advertising and marketing rules are to be further coordinated or harmonised, EUSIPA though wishes to draw attention to the fact that any such local provisions must not be used to unduly circumvent European rules aiming to standardise product-related documents such as the securities prospectus or the PRIIPs Key Information Document, which are meant to be used, once produced within the European Union's internal market, in a uniform way across the EU jurisdictions.

On an infrequent albeit more than a single case basis, some national regulatory authorities seem not willing to recognise the EU standardisation of such product documents as being sufficient and request distributors to amend documents originating from other EU markets where regulators have not objected their content. Such national practices heavily distort the EU level playing field not only as they run counter to the idea of information consistency through EU-wide uniform product documentation for the individual product at stake. Long-term, such regulatory practices have a great potential to fundamentally erode trust in the prevalence and binding character of EU standards most of which have been introduced under the deliberate choice of an EU Regulation in order to make uniform rules directly applicable on the national level and which are underpinned by even more detailed EU-wide consistent Regulatory Technical Standards (RTS).

Judging from its intention to enable retail investors to compare retail financial products across national markets, the PRIIPs Regulation strictly needs to be read as an effort aiming at establishing a maximum of regulatory coherence across the EU markets in terms of retail information provided through the KID. This consequently implies that, beyond a review for technical correctness (e.g., the translation of termini technici from one language into another in case of KIDs originating from another EU market with a different language regime), there is no place for the evolution of national "practices" (read specific national drafting requirements) for the implementation of the EU PRIIPs Regulation in any given jurisdiction.

In terms of the preapproval of marketing material and the KID which is required in some of the EU national markets, EUSIPA wishes to draw the attention to the fact that the inconsistent practice both in terms of turnaround/feedback timespans as well as the frequency, scope and content of material objections (see above) often leads to disruptions in particular in the online business, where retail customers in all markets

expect a high responsiveness (in terms of “ability to deliver”) from their banking institution on any product distribution-related functionalities.

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

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

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

Please explain your answer to question 3.7:

5000 character(s) maximum

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

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

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

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

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

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

Please explain your answer to question 3.9:

5000 character(s) maximum

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

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

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

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

Please explain your answer to question 3.10:

5000 character(s) maximum

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

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

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

Please explain your answer to question 3.11:

5000 character(s) maximum

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

4. Disclosure requirements

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

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

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

Please explain your answer to question 4.1:

5000 character(s) maximum

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

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

Question 4.2.1 PRIIPs Key Information Document

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

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

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

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

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

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

Please explain your answer to question 4.2.1:

5000 character(s) maximum

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

EUSIPA wishes to mark up that before rating tables do not lend themselves to an assessment from the cross-market / EU perspective as the matrix does not allow for capturing asset class- and product type-specific aspects that are relevant for the KID production in a number of national markets. A generalised assessment by way of globally assigning grades/evaluation levels across markets and asset classes from an EU perspective “for all KIDs” does, in our eyes, not allow for extracting useful information meant to serve as a basis for targeted amendments in legislative and regulatory frameworks.

On a more general note regarding the aspects mentioned in above tables, EUSIPA considers the current PRIIPs KID to aim to enable the investor, at least for packaged products, to understand its content and use it to compare single technical aspects depicted in one KID with equivalent information of other KIDs, thus being useful to a certain extent as one albeit not the only source of information for making investment decisions.

As far as costs are concerned, EUSIPA would support to strictly bringing the methodology used to present costs in PRIIPs KIDs (currently Reduction-in-Yield) in line with the one used under the implementation of the MIFID II directive, namely the indication of a Total Expense Ratio (TER). It may also be assessed whether the MiFID cost information should not be the only source, so to avoid misunderstanding for the customer and reduce unnecessary duplication.

Doing so would have, next to achieving information consistency, the positive effect that service costs could

be added to the cost information provided to the end customer. On a more general basis, TER based cost information seems easier understandable as Reduction-in-Yield, as the latter concept insinuates, by its name, that the “yield” component must have been read and understood by the retail investor before it is possible to comprehend the RIY indication. This is not necessarily the case.

It must further be noted however that both MIFID II and also EU prospectus rules require information on product returns and risks, which, albeit being not as prescriptive as PRIIPs, might potentially lead to inconsistencies or redundancies.

Question 4.2.2 Insurance Product Information Document

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

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

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

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

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

	1 (insufficient)	2 (adequate)	3 (excessive)	Don't know - No opinion - Not applicable
Insurance Product Information Document (as a whole)	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>

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

Please explain your answer to question 4.2.2:

5000 character(s) maximum

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

Question 4.2.3 PEPP Key Information Document

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

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

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

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

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

Information on the pay-out phase	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>
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Question 4.2.3 c) PEPP: Is the amount of information provided for each of the elements below insufficient, adequate, or excessive?

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

Please explain your answer to question 4.2.3:

5000 character(s) maximum

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

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

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

Please explain your answer to question 4.3:

5000 character(s) maximum

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

EUSIPA would argue that the language used for precontractual documentation to retail investors in the markets covered by the association's members, is generally understandable.

The, at first sight, occasionally technical character of the language register used needs to be seen in context with the fact that any such (verbal) statements serve the purpose to explain specific product features (performance, payoff mechanism, costs) strictly in a format and sequencing required by the relevant ruleset, such as the EU PRIIPs Regulation.

Judging the understandability of precontractual documentation required by specific disclosure rules cannot be done by using the same scale as for other documentation, for example explanatory material produced for learning or marketing purposes. Verbal statements meant to comply with binding disclosure rules, by nature leave only a small, if any, margin to the authoring financial institution to deviate from the requested standard and even less so, if a strict 3-pages limit is to be observed. The same goes for the deliberate omission of any aspects important to the investment decision but not required/allowed by law such as the potential tax situation of the retail investor or the thinkable portfolio context for investing in a specific product.

EUSIPA also wishes to stress that the aspect of a uniform standardized messaging/wording in practice wins particular importance for products sold across internal EU borders on the basis of automatized product information documents. (See also EUSIPA answer to question 5.4 with more details on the aspect of single NCA objections to KIDs, including the language used, that have not been objected in the originating EU market.)

From a broader perspective, the retail point-of-sale disclosure rules need to be seen also in context with further regulatory mechanisms applying to retail distribution, such as target market indication, customer categorization and suitability and appropriateness tests. Taking before elements together they represent in their entirety a system of correlating rules and conditions in which the information disclosure element is but one, albeit an important component. Changing one component, for example widening or simplifying disclosure rules/language aspects thus always need to be seen in conjunction with how it would influence the functioning of the other elements.

An aspect that should not be overlooked at this end is that disclosure rules are never meant to replace the investment advice provided to investors. As consequence, precontractual information required as part of EU wide distribution governance always needs to strike a careful balance between technical correctness, readability and useability for further (e.g., comparative or advisory) purposes that are potentially necessary in the distribution process to retail investors.

Overall, EUSIPA thus wishes to state that the register of language used as part of the current set of retail POS disclosure rules, which forms part of the wider product governance approach as is set out mainly under MIFID II, seems to fit its purpose sufficiently well.

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

5000 character(s) maximum

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

EUSIPA agrees that the PRIIPs KID should be a pre-contractual document. However, there are situations where pricing is time-sensitive and waiting for a KID can be detrimental to the retail investor. In these situations, a KID should be able to be provided post-trade. This would be equivalent to MiFID rules on the delivery of information on costs and charges after the conclusion of a transaction.

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

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

Please explain your answer to question 4.5:

5000 character(s) maximum

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

As an introductory comment, EUSIPA wishes to stress that any regulatory effort aiming to disclose technical aspects of financial products to retail investors needs to strike a careful balance between ensuring comparability of a document and its exhaustive technical coverage. EUSIPA is convinced that more often than not the prime focus should be put on conveying the needed level of technical understanding so to enable the customer to correctly grasp the pay-off functioning and risk aspects of a product, rather than promoting at all costs the comparability of the information across the PRIIPs landscape.

In answering the question, EUSIPA would generally support the notion that the precontractual documentation, in particular the PRIIPs KID in its current format, aims to allow investors to compare information on those products covered. An important comparison gap thus exists still for UCITs funds, until their inclusion into the PRIIPs Regulation's scope.

As for PRIIPs, EUSIPA also wishes to draw attention to the impact that ill-conceived specific provisions in the PRIIPs Regulation's Regulatory Technical Standards (RTS) can have in terms of heavily alleviating or exacerbating the comparative assessment of single asset classes in specific situations, such as, for example, the performance evaluation under an Intermediate Holding Period for products with a callable (read: early termination) feature. EUSIPA upholds that also beyond the above example, the amended version of the current PRIIPs RTS is likely to introduce disproportionate changes by providing for a specific

methodology overly prescriptive for autocallable products (both in terms of performance scenarios and cost tables) which hinders significantly the comparability of KIDs for Category 3 PRIIPs, i.e. within the same asset class of structured funds and structured notes.

More generally, EUSIPA wishes it to be noted that while the PRIIPs KID, as pre-contractual documentation most used for comparative purposes of more sophisticated financial products, allows for comparing the captured single technical features between different PRIIPs, it does not replace a broader consideration of the investment context, that more often than not include aspects not depicted in the KID such as tax implications (e.g., common capital gains tax/income exemptions for packaged insurance products) or portfolio management considerations (e.g., the hedging function of a PRIIP).

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

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

Please explain your answer to question 4.6:

5000 character(s) maximum

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

EUSIPA fundamentally supports efforts to improve the comparability of retail investor information but would agree with above statement with a clear limitation on “(only) as far as possible”.

EUSIPA wishes to stress again that any regulatory effort aiming to disclose technical aspects of financial products to retail investors needs to strike a careful balance between ensuring comparability of a document and its exhaustive technical coverage. EUSIPA is convinced that more often than not the prime focus should be put on conveying the needed level of technical understanding so to enable the customer to correctly grasp the pay-off functioning and risk aspects of a product, rather than promoting at all costs the comparability of the information across the PRIIPs landscape.

EUSIPA is convinced that in light of the different roles products captured by the PRIIPs Regulation could play in the retail investor portfolio context (arising from the manifold variations in terms of legal wrapper, specific payoff modalities, maturity, underlying's market exposure and issuer risk) and considering that important investor issues may not be covered by the KID information, such as the tax treatment of payoffs /earnings, comparability should not be treated as a stand-alone feature of a KID in a sense that every KID allows to fully compare the product it relates to any other (product with a KID).

Comparability should rather be seen as a common, albeit not guaranteed, advantage of a PRIIPs KID in a way that those parts of product information provided in one KID, upon a case-by-case verification, could indeed be comparable with equivalent information in another KID and thus allow for a comparative conclusion on these aspects between two products.

To illustrate the before by way of an example – while full comparability exists between the issuer risk levels for manufacturers of a leverage product and of an insurance product, due to the clear rating indication, both

products have totally different roles in a retail investment context and also very likely different tax treatments, making them on a wholistic (portfolio) basis actually totally incomparable.

EUSIPA is of the opinion that these limitations of comparability at the level of pre-contractual documentation have to be accepted. The main reason is, as stated before, that precontractual documentation is not meant to replace the provision of financial advisory services to retail investors.

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

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

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

5000 character(s) maximum

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

As stated above under 4.2.1., EUSIPA would, as for the cost information provided to retail investors, support to strictly align the methodology used to present costs in PRIIPs KIDs (currently Reduction-in-Yield) with that used under the implementation of the MIFID II directive, namely the indication of a Total Expense Ratio (TER).

Doing so would have as a positive aspect, next to achieving information consistency, the effect that service costs could be added to the cost information provided to the end customer. On a more general basis, TER based cost information seems easier understandable as Reduction-in-Yield, as the latter concept insinuates, by its name, that the Yield component must have been read and understood by the retail investor before it is possible to comprehend the RIY indication. This is not necessarily the case.

As for the MIFID cost indications, recommended here as the relevant ruleset to align the current cost information under PRIIPs with, it should be noted that currently, following article 50(10) of MiFID II DR 2017 /565 intermediaries are required to provide their clients with an illustration of the impact of "aggregate costs on return". Experience shows that this concept (also used in the current PRIIPs KID) is not well understood by investors, especially retail investors and should thus be abandoned.

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

- Yes
- No
-

Don't know / no opinion / not applicable

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

5000 character(s) maximum

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

EUSIPA wishes to mark-up that, ideally, any non-performance risk information provided under MIFID II ought to be strictly aligned with the relevant information parts on this aspect set out in the PRIIPs KID, while any doubling of information needs to be avoided, as far as possible.

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

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

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

5000 character(s) maximum

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

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

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

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

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

Please explain your answer to question 4.8:

5000 character(s) maximum

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

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

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

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

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

Please explain your answer to question 4.9:

5000 character(s) maximum

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

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

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

Please explain your answer:

5000 character(s) maximum

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

EUSIPA is concerned that strict word count requirements do not only run counter to language specifics in the European context but also do rather arbitrarily and unnecessarily restrict the manufacturer's ability to present the information that retail investors need to understand essentials of the product such as its pay-off mechanism and risks, where a more complete information (i.e., one not shortened by a word count requirement) could do only good.

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

Please explain your answer:

5000 character(s) maximum

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

EUSIPA is of the view that generally there should be no difference in the disclosure requirements between assumingly complex and non-complex products.

First of all, EUSIPA shares the opinion that complexity is not an adequate feature to be used in any methodology aiming to regulate product governance requirements, including those dealing with information disclosure.

Complexity is highly subjective and thus difficult to define in abstract terms. Complexity often arises from aspects that are meant to work out for the benefit of the investor (as is the case for protection against capital loss, currency conversion or issuer risk, for example) or do cater for an explicit demand. The latter is the case, for example, for structured products with a low-risk basic component (such as an investment grade bond) whose yield potential is increased, for example, by adding specific capital market instruments such as options. Complexity as something initiated by the investor increasingly also comes about, to give another example, in the format of the many specific ESG characteristics a financial product can have.

Resorting to complexity as a regulatory concept thus might only be sensible if it were possible to distinguish somehow between “positive” and “negative” complexity, with the first being exempt from regulatory attention that should rather focus on the latter. Complexity however cannot be distinguished into positive and negative categories as, outside the aspect of adding a protection against certain market risks (capital loss, currency devaluation, issuer default) most times complexity is borne out of a structuring effort to achieve a better yield. This intention as such is a capital-markets inherent motivation of all investors which cannot be generally labelled as negative. Complexity therefore is not a useful criterion for regulatory consequences to be based on.

Consequently, in terms of the product information material as such, EUSIPA concludes that there are no specific requirements needed as the information to be provided in any such material already under existing rules requires to relate / set out those aspects that potentially lead to judging a product as having a complex nature, in an understandable and sufficiently exhaustive (“fair”) manner.

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

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

Please explain your answer to question 4.12:

5000 character(s) maximum

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

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

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

Please explain your answer to question 4.13:

5000 character(s) maximum

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

While the drafting of the KID in or its translation into the official language of a country certainly is the regular case for any information document used in the context of retail distribution, some distribution situations may require a specific treatment.

There are, for example, markets in the European Union, most notably in the CEE region, where a majority of investors have, for some asset classes (e.g., leverage products) and/or under specific distribution regimes (e.g., non-advised sales), already today developed a preference for using English language documents.

Other countries may have an official language that is spoken by a minority only, for example Germanophone investors in Belgium, for which a translation seems from practical experience in the past not necessarily needed given that the overwhelming majority of the investors concerned are perfectly capable of understanding (one of) the other languages spoken in the respective country (French and Dutch in the example of Belgium).

More generally, EUSIPA wishes to mark-up that information documents should always be drafted in the language that the contracting parties have agreed to use for communication (according to Art. 47 (1) (b) MiFID II Regulation, the investment services firm must inform the client of this language). In many cases, this will be the language of the country in which the distributor distributes the products.

However, bilateral agreements on communication between distributor and client should always be possible and should be given priority.

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

Please explain your answer:

5000 character(s) maximum

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

When seeking to improve the quality of legally prescribed retail point-of-sale precontractual disclosure documents in the European Union, EUSIPA would plead to consider the following aspects, in particular:

The general approach for the distribution of product related information should be as clear and easy to understand for clients/investors as possible, so that client/investors can apply a natural understanding where to look for relevant information. To the extent possible, there should also be a consistent language and publication regime.

As a general principle EUSIPA is convinced that for all disclosure documents meant to be used by retail investors, understandability should be weighted higher than comparability between different products. Alternatively, several options could be provided for certain content items, potentially with a requirement to provide information by way of the standardised methodology in an annexed document or on the internet.

Parallel information requirements (especially those under MiFID/PRIIPs) should be abolished wherever possible. This could be implemented in a way that wherever parallel information channels currently provide (partially) overlapping information, only the channel providing more exhaustive information should be maintained.

An example for a situation where this conflict of parallel information needs resolution is the cost-related information currently to be disclosed under both PRIIPs and MiFID rules. Another example are securities prospectuses and prospectus summaries that should be made more coherent with the product information provided under MiFID and PRIIPs, so as to avoid a doubling of information.

Taking the idea of an effective disclosure a step further and beyond the elimination of parallel information, EUSIPA is of the opinion that it should be generally possible to combine the KID with one or several documents containing additional information not covered by the KID, either prepared by the manufacturer or the distributor. This could also include topics covered by the KID, but where an additional presentation may make it easier for investors to understand the product. It may further relate to country specific aspects such as taxation which are not covered by the KID but often have a fundamental impact on the yield expectation and hence the investment decision of the retail investor.

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

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

Please explain your answer to question 4.15:

5000 character(s) maximum

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

5. The PRIIPs Regulation

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

Core objectives of the PRIIPs Regulation

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

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

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

Please explain your answer to question 5.1 a):

5000 character(s) maximum

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

EUSIPA would basically support this statement. The PRIIPs KID has, in particular through its structured and sequenced approach, contributed to better presenting the many technical aspects important to understand the basic features of a packaged product, to retail investors.

Nonetheless EUSIPA wishes to markup that there must not be held excessive expectations in terms of what the KID can deliver. While providing sold technical information on the products pay-off functioning and performance risk, many aspects which are important for an investment decision do not figure in it (e.g., tax situation of the product/investor and the portfolio context). It also needs to be understood that the KID as such, despite the value added it brings about in terms of a certain comparability across products, does never replace the delivery of investment advice. Neither was it ever meant to.

Stronger attention needs to be given though to level 2 rules which might, as indicated earlier, fail to deliver the needed level of technical correctness and understandability if they are not thoroughly tested for all

product classes in scope. An illustrative example was correction of the RTS that became necessary in 2018 and only after the first set of RTS came into force, in such way that specific products (leverage products with a short maturity) had to be exempt from the requirement to annualize performance and cost indications in order to avoid non-sensical numeric outcomes.

A further area of weakness is the cost indication methodology of Reduction-in-Yield, which not only differs from the approach used in other rulesets applicable to the same range of products as PRIIPs, notably MIFID, but has proven to be as such counterintuitive for customers.

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

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

Please explain your answer to question 5.1 b):

5000 character(s) maximum

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

EUSIPA would on a general basis support this statement, while the cross-asset comparability available to retail investors through PRIIPs KID documents still is fundamentally limited, and already so for a relatively long period since PRIIPs coming into force, due to the exclusion of UCITs funds that will be brought into scope only in 2023.

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

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

Please explain your answer to question 5.1 c):

5000 character(s) maximum

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

EUSIPA would mark up that while it can surely be assumed that the launch of the KID has somewhat contributed to structure the provision of product-related information at least when investors have really used (read) the document, it is difficult to argue whether mis-selling in the internal market has been reduced due to the KID. Any definite statement would need to be based on a comparison of the before/after situation. It should also be borne in mind that financial institutions traditionally, meaning not only since the launch of PRIIPs, have a strict focus on customer retention the key to which is investor satisfaction. Successful investing is however not something achieved alone by providing correct product information, as the KID seeks to deliver. Of at least similar importance, next to the provision of technical information as contained in the KID, is the consideration of the wider context in which the investor acquires financial products. Here, a multitude of other aspects that are not part of the KID, such as taxation issues and the global portfolio context in which a product is embedded next to other assets held by the investor, play a great role.

Above comments stand in line with the one made earlier in the chapter on the danger to hold excessive expectations in terms of what a KID can deliver.

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

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

Please explain your answer to question 5.1 d):

5000 character(s) maximum

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

In coherence with the statement made on before question, EUSIPA would underline that while the KID has surely helped with the ad-hoc comparability of specific elements of products in scope of the PRIIPs Regulation, it is difficult to say whether and to what extent it has contributed to the overall investment success/satisfaction of retail investors. As mentioned before, the financial advice and/or the consideration of other aspects not part of the KID but highly relevant to investors, may have contributed at least as much as standardised technical information, if not more.

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

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

Please explain your answer to question 5.2:

5000 character(s) maximum

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

In the absence of any practical experience suggesting otherwise, EUSIPA would assume that PRIIPs KIDs are easily available and can be found without difficulty/delay by any investor looking for them.

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

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

Please explain your answer to question 5.2.1:

5000 character(s) maximum

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

EUSIPA does not support the creation of an EU-wide or national database for KIDs as this might severely hinder the limitation of offers to specific customer groups and or national markets. Severe concerns also exist in terms of whether the operational handling of the data input feed, update routines and general maintenance of the database can be provided at the level needed. This aspect is somewhat linked to the uncertainty in terms of which institutional level and entity bears the ultimate legal responsibility for any incorrectness, shortcoming or malfunctioning of the database, which is of vital importance especially if investors were to base their decision on information provided through such a tool, what would probably be often the case.

The PRIIPs KID

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

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

Please explain your answer to question 5.3:

5000 character(s) maximum

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

By way of an introductory comment, EUSIPA would like hint at the difficulty that lies within making any statement on "simplifying" the KID without further background on what such simplification effort is meant to entail or relate to. Simplification can be understood in various ways and hence vary according to which market stakeholder is at its origin or target. An example is the technical simplification of a used methodology or a simplification of specific verbal statements required or a simplification of the document as such by

omitting selected parts of its current version.

As a general notion, EUSIPA would not support simplifying the KID as a stand-alone activity in reforming the regulatory landscape for retail distribution of financial products. The KID, as used today, has finally emerged as a lowest common denominator outcome resulting from an exceptionally arduous consultative and legislative process which sought to cater to a multitude of political goals and market stakeholder views. Despite room for improvement at many ends, any fundamental overhaul needs to follow a wholistic review of other encompassing regulatory mechanisms into which the KID is embedded as but one component. (To illustrate: were the KID to be simplified so to improve its readability would that not trigger disclosure obligations or distribution restrictions at other ends?)

Therefore, instead of “KID-centric” amendments, such as a broad simplification, changes should be envisaged that contribute to the consistency of product information provided to the retail investor, on a larger scale.

Implementation and supervision of the PRIIPs Regulation

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

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

Please explain your answer to question 5.4:

5000 character(s) maximum

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

While the overall implementation of the PRIIPs rules within the European Union by and large seems to be broadly consistent at least within asset classes, EUSIPA wishes to draw attention to a regulatory approach towards KIDs taken in some markets that has a high potential to impact the EU's level playing field for retail financial products.

Concretely, EUSIPAs concerns relate to the tendency of some national regulators, notably those which have introduced in their markets a prenotification requirement for KIDs of newly issued products, such as Belgium, to sporadically request changes in single product KIDs that have been produced already under the supervision of NCAs in other EU markets and were often part of a multijurisdictional offering of a specific product (type).

The requested changes are mostly made without clear methodological concept that underpins them and often seem to lack a reasoning which would explain their necessity in terms of specificities of the national target market. (An example for such change request is a demanded switch from number-based presentation of information to wording-based one.) From the industry's perspective, most if not all of such change request fail to be supported by an equivalent objection of the relevant KID parts by NCAs of other EU markets, as well as evidence, sourced in from relevant distribution professionals or the retail investor audience hinting at the necessity of such local changes/adaptations.

Seen from a broader angle, the practice of objecting KIDs produced under the supervision of fellow NCAs in other EU markets without consulting these, also has a potentially very detrimental business (and cost) impact as adapting single product KIDs disrupts the automatised KID production for identical product types in the EU. It must not be overlooked that the fact that financial institutions in the EU are able to automatise the KID production represents one of the key benefits of the PRIIPs Regulation and is a core achievement in the endeavour to making the EU more attractive to cross-border product offering on retail capital markets.

A solution to the problem could lie with making it mandatory for supervisory authorities to not only consult with, as is foreseen currently for packaged insurance products, to extend to all PRIIPs. It could further be adequate to specify how the home-country principle applies in the EU internal market for KID documents used on a cross-border basis.

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

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

Please explain your answer to question 5.5:

5000 character(s) maximum

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

EUSIPA makes reference to the statement answering question 5.4.

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

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

€

Please explain your answer to question 5.6 a):

5000 character(s) maximum

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

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

€

Please explain your answer to question 5.6 b):

5000 character(s) maximum

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

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

 €

Please explain your answer to question 5.6 c):

5000 character(s) maximum

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

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

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

 €

Please explain your answer to question 5.7 a):

5000 character(s) maximum

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

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

 €

Please explain your answer to question 5.7 b):

5000 character(s) maximum

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

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

 €

Please explain your answer to question 5.7 c):

5000 character(s) maximum

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

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

Please select as many answers as you like

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

Please explain your answer to question 5.8:

5000 character(s) maximum

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

Multiple-Option Products

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

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

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

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

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

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

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

Please explain your answer to question 5.9:

5000 character(s) maximum

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

Scope

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

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

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

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

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

5000 character(s) maximum

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

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

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

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

5000 character(s) maximum

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

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

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

- Yes

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

Please explain your answer to question 5.11:

5000 character(s) maximum

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

The KID in its current format not being consulted by the majority of investors before their investment decision, it is highly unlikely that previous versions will benefit from more attention. Storing and making available previous versions of the KID will also involve more costs for issuers. The question is whether the advantages of providing them outweighs the increased cost factor.

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

Question 5.12.1 Should the review and update occur more regularly?

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

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

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

Question 5.12.3 What should trigger the update of PRIIP KIDs?

5000 character(s) maximum

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

The current prescription of a review at least every 12 months and a further review in case of significant changes has proved feasible and generally acceptable. However, it would be helpful if the requirements that trigger a review before the expiry of 12 months were further specified. Also, the exception from an update during the initial subscription period should apply without exceptions.

Please explain your answer to question 5.12:

5000 character(s) maximum

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

6. Suitability and appropriateness assessment

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

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

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

Please explain your answer to question 6.1:

5000 character(s) maximum

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

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

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

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

- Yes

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

Please explain your answer to question 6.3:

5000 character(s) maximum

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

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

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

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

Please explain your answer to question 6.4:

5000 character(s) maximum

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

EUSIPA is convinced that the existing legal framework that sets the rules for the distribution of financial products to retail investors in the EU, which includes but is not limited to the appropriateness and suitability criteria, is sufficient in scope and density to safeguard the retail investors interest.

The above in particular applies to the product governance regime at large which under the various legal rulesets frames the relevant manufacturing and distribution requirements thereby ensuring that only products within a certain range are made available to an investor and that investors are correctly, fair and in a non-misleading manner informed about the products made available to them. (By way of example, the MIFID target market indication ensures the first aspect while the product-specific information flow is provided through the PRIIPs KID or, on ESG aspects, the future SFDR information sheets.) All these elements have

to be seen and evaluated strictly under a wholistic perspective and carry a particular weight within a non-advised sales situation together with the appropriateness test.

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

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

Please explain your answer to question 6.5:

5000 character(s) maximum

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

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

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

Please explain your answer to question 6.6:

5000 character(s) maximum

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

Yes, EUSIPA would consider the rules on appropriateness being sufficiently adapted to retail distribution activities through online banking platforms or brokers.

More generally, EUSIPA would urge caution against assuming that the proliferation of such online order platforms within the past years per se substantiates a concern that as such tools have become easily and broadly available, the average (retail) investor is using them without having the sufficient knowledge. To the best of our knowledge this assumption is wrong already as it grossly neglects the learning and information opportunities that are also available online and which usually go hand in hand with the readiness (and the level at which) investors engage in active online investment activity without seeking advice.

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

- Yes

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

Please explain your answer to question 6.7:

5000 character(s) maximum

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

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

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

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

Please explain your answer to question 6.8:

5000 character(s) maximum

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

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

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

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

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

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

Please explain your answer to question 6.9:

5000 character(s) maximum

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

EUSIPA considers that the legal requirements for target market identification and review, which were further specified by ESMA in the guidelines on product governance, are sufficient - especially since the requirements are planned to be specified in 2022 under the aspect of sustainability, which is to be taken into account both in the target market identification and the target market review. Further substantial requirements are not necessary, all the more as the existing level 2 requirements somewhat extend beyond the level 1 provisions.

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

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

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

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

Please explain your answer to question 6.10:

5000 character(s) maximum

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

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

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

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

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

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

Please explain your answer to question 6.12:

5000 character(s) maximum

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

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

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

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

- Yes

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

Please explain your answer to question 6.13:

5000 character(s) maximum

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

7. Reviewing the framework for investor categorisation

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

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

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

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

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

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

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

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	Yes	No	Don't know - No opinion - Not applicable
Introduction of an additional client category (semi-professional) of investors	<input type="radio"/>	<input type="radio"/>	<input checked="" type="radio"/>
Adjusting the definition of professional investors on request	<input checked="" type="radio"/>	<input type="radio"/>	<input type="radio"/>
No changes to client categorisation (other measures, i.e. increase product access and lower information requirements for all retail investors)	<input type="radio"/>	<input checked="" type="radio"/>	<input type="radio"/>

Please explain your answer to question 7.1:

5000 character(s) maximum

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

EUSIPA would base its position on the general assumption that there is, according to the business experience of our members throughout the EU markets, a stable potentially even growing number of retail clients who have a high level of experience and knowledge of financial markets and products. The current legal requirements should therefore be more adequate to them in a way that they do not receive an overload of information that they in fact do prefer not to receive.

EUSIPA takes the view that any alleviations responding to above situation may be implemented by gradually improving the existing framework. It seems in this context indeed worth analysing whether the conditions for “opting-up” (from retail to professional) are to be changed. In this context it is to be noted that experience and knowledge are of crucial importance and that they are rather stable criteria, contrary to the personal wealth of an individual investor and/or the number of financial transactions monitored, for instance, on a yearly basis.

In case the contemplated opt-up and the recently agreed upon opt-out (through the MiFID II Quick Fix) regimes would not bring the expected results, the option of a new category of clients should in any case benefit from grandfathering in respect to existing categories. Were any such new category be looked at, it should be voluntary, so that entities could have the possibility to activate it or not depending on their specific client situation. In the area of reporting, the new category should in any case be a subcategory of retail clients or of professional clients, with clients by default being treated according to the stricter standards of the wider segment (e.g., “retail clients”).

Analysing the feasibility of such a new (sub)category would also necessitate testing numerous adaptations in the existing legal framework, in particular regarding:

- o Product Governance (additional target market for manufacturers and sellers)
- o Suitability assessment/appropriateness test
- o Inducement/quality enhancements
- o Best-execution policy
- o Reports on retail business-linked IT systems and point of sale processes (on customer verification and documentation).

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

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

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

Please explain your answer to question 7.2 a):

5000 character(s) maximum

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

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

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

Please explain your answer to question 7.2 b):

5000 character(s) maximum

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

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

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

Please explain your answer to question 7.2 c):

5000 character(s) maximum

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

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

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

Please explain your answer to question 7.2 d):

5000 character(s) maximum

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

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

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

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

Please explain your answer to question 7.3:

5000 character(s) maximum

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

8. Inducements and quality of advice

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

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

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

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

Please explain your answer to question 8.1:

5000 character(s) maximum

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

EUSIPA considers that at the end of inducements, the existing regulatory framework already provides the appropriate level of investor protection. The relevant MIFID II has sufficiently enhanced the rules applying to inducements and strengthened the provisions covering potential to conflicts of interests between market participants in the retail distribution domain.

EUSIPA thus is opposed to an EU-wide inducement ban.

Given that, throughout the EU investment firms have successfully adopted the policies and procedures required to properly and effectively implement the MIFID regime and its rules dealing with protection of clients, transparency and fair conduct of firms and of the lack of any evidence for a “market failure” brought about by the current inducement regime at EU level, EUSIPA is of the opinion that a total EU-wide ban on inducements is not only not necessary and unjustified. Introducing an inducement ban would runs a concrete danger to cause vast negative consequences for retail markets.

One such detrimental evolution, judging from the experience in the UK where a full inducement ban has been introduced, could be caused by the need for intermediaries to apply explicit investment advice commissions/fees, which might in turn lead to a refusal to receive investment advice at the majority of retail customers. This concern is ultimately rooted in the fact that in many European countries, cultural reasons exist that bolster the clients’ unwillingness to pay for advisory services. Ignoring this would mean to accept that investors, acting on a traditional behavioral bias, opt to lose the benefit of advice provided through the current non-independent investment advice regime and be ultimately driven to self-directed investment activities or, in the worst case entirely abstain from engaging in capital markets.

Intermediaries focused on mass and affluent market clients would also be affected. They would, in case of an inducement ban, no longer be able to provide the current range of products to their customers because of the costs related to the set-up and proper functioning of the organization and its resources behind such diversified offer, along with (and exacerbated by) the upcoming loss of revenues due to lacking income from inducements.

EUSIPA also hints at the fact, that throughout the EU markets, currently there only is a very low demand for independent (fee-based) investment advice even as such is clearly possible under MIFID II. Judging from practical experience with this model (of independent advice), it can be almost taken for granted that its provision would be more expensive for the vast majority of retail clients. Essentially, the independent advisor business model implies a higher cost of advice service for investors as the lack of income from manufacturers (in the traditional form of inducements) has to be compensated for. That effect is also one of the main reasons why both advisors and investors should be free to choose the most suitable model they respectively offer and ask for, under current MIFID terms. Were retail customers though forced to resort to (the more expensive) independent advisory services, the resulting situation would very likely foster the abstention of a large part of retail customers from engaging in capital markets activity altogether, which is obviously highly worrisome on a macro-economic scale, first and foremost for the well-known problem caused by pension age funding gaps looming across all OECD countries.

Last not least, the fact that the independent advisory business has not been more successful in the markets may also be seen as evidence for the fact that the current inducement regime actually quite efficiently caters for the actual demand across the EU retail markets.

EUSIPA also finally support the assumption that a ban on inducement would not automatically translate into cheaper financial products. It is fundamentally wrong to assume that an outright ban on inducements would

improve the overall cost profile of financial products simply because distribution fees would not be paid. Rather, EUSIPA is convinced where advice is included in the product price (read: inducements are paid under the current MIFID rules) the established practice leads to cheaper and more accessible advice service for low and medium size portfolios, mainly through standardized inducement levels and the economies of scale in their broad application.

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

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

5000 character(s) maximum

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

EUSIPA makes reference to the statement given on question 8.1 on the market impacts of an inducement ban that relate to the abstention to engage in paid independent investment advice for cultural reasons, the higher costs of independent financial advice, the absence of evidence or reasons to assume that any inducement ban would lead to cheaper financial products and in general the danger that customers due to all of the before aspects abstain from engaging in capital markets activity altogether.

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

5000 character(s) maximum

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

EUSIPA makes reference to the statement given on question 8.1 on the market impacts of an inducement ban and wishes in addition to express its concern that there is a high risk that investment advisory services, in case of an inducement ban, would either be provided through expensive independent advisory services that have failed to establish themselves so far on a larger scale in the EU, or in case customers are unable or unwilling to engage in such independent services, would tend to be provided through “robo-advice”-labelled functionalities.

While many of these robo-advice applications are frequently presented as a valid substitute to traditional advice, they are often limited to price comparison tools. The asset allocation to investor portfolios often is considered only in a generic manner without taking into account the actually existing assets of investors. In many such cases, as recommendations are not really personalized to incorporate the specific needs and objectives of clients, their qualification as being “investment advice” could actually be challenged.

Overall, EUSIPA wishes to underline that the current inducement regime under MIFID with its clear focus on transparency and fairness, has actually helped to maintain a market-adequate balance between the traditional (inducement-based) distribution of financial products and alternative ways (such as independent or robo-advice based distribution).

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

5000 character(s) maximum

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

EUSIPA makes reference to the statement given on question 8.1 on the market impacts of an inducement ban that relate to the abstention to engage in paid independent investment advice for cultural reasons, the higher costs of independent financial advice, the absence of evidence or reasons to assume that any inducement ban would lead to cheaper financial products and in general the danger that customers due to all of the before aspects abstain from engaging in capital markets activity altogether.

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

5000 character(s) maximum

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

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

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

Please explain your answer to question 8.3:

5000 character(s) maximum

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

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

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

Please explain your answer to question 8.4:

5000 character(s) maximum

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

Question 8.5 How should inducements be regulated?

Please select as many answers as you like

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

Please explain your answer to question 8.5:

5000 character(s) maximum

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

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

Please explain your answer to question 8.6:

5000 character(s) maximum

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

Reiterating the explicit position taken by its members on this point, EUSIPA does not see the need for a legislative change in above area, as the industry believes that the issues that result from PFOF situations may be addressed within the current legislative and regulatory framework.

The use of payments for order flow (PFOF), where a broker (investment firm) directs the orders of its clients to a single execution venue (i.e., a trading venue as defined in Article 4(1)(24) MiFID II) for execution against remuneration, appears to be increasingly popular as a business model, in particular in the context of newly established online brokers (known as "neo brokers"). Being compensated by such execution venues, neo brokers are able to offer their services with low – or even no – direct fees to their clients. This aspect may need further investigation.

While, on one hand, this practice seems to contribute to a very significant increase in clients investing in financial instruments and thus fosters – the highly desirable – investor participation in capital markets, on the other hand, it may raise concerns in terms of potential conflicts of interest due to payment of inducements and fulfilment of the obligations surrounding best execution of client orders (i.e., an obligation to execute orders on terms that are most favorable to the client).

Where the business model of neo brokers is based on payments received from cooperating trading venues, it should be kept in mind that the use of inducements (i.e., fees, commissions, and monetary or non-monetary benefits) in general is already very restricted, i.e. any payment must be designed to enhance the quality of the relevant service to the client and 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. According to ESMA, the quality enhancement provided should go beyond aspects of the firm's organisation or services that are legally required or that can be considered as essential for its functioning. Any payments must also be clearly disclosed – transparency is a crucial aspect for the investor.

Like any other investment firm, neo brokers also have the duty to apply the principal of best execution. It must be ensured that there are no incentives to route client orders to the highest bidder rather than to the execution venue offering the best prices and fastest execution. If a broker cooperates, for instance, with several trading venues and gives its clients the choice between these several trading venues, the broker

must present the trading venues in a manner to its clients that is not influenced by inducements paid by any of these trading venues. Pre-determination of a particular trading venue might go against best execution principles. As outlined by ESMA in its “Questions and Answers” on MiFID II and MiFIR investor protection and intermediaries topics, MiFID II does not prohibit firms from selecting only one execution venue to execute client orders in a given class of financial instruments, provided that they are able to demonstrate that this choice enables them to consistently get the best results for their clients. However, from an investor perspective, it may make a difference if only one or several execution venues are offered.

In order to comply with the requirement under Article 24(1) of MiFID II to act in the best interests of its clients, firms will need to regularly assess the market landscape to determine whether or not there are alternative venues that they could use. It is indeed of utmost importance that the best execution venue is chosen in the interest of the clients.

It seems that the PFOF may take different forms in practice. From our point of view, the effects of PFOF should be carefully analysed before making any policy decisions. This analysis should in particular take into account the use of third-party payments by the broker, potential detrimental effects on the execution quality and the transparency to the clients of the broker.

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

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

Please explain your answer to question 8.7:

5000 character(s) maximum

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

EUSIPA takes the position, following the arguments laid out in our response to question 8.6, that there could be a value added in imposing more transparency in PFOF schemes related to conflicts of interest when it comes to the execution of retail orders. However, a fundamental legislative change to the best execution regime would be likely to have deep repercussions, including on market structure, extending its impacts well beyond the execution of retail orders.

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

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

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

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

5000 character(s) maximum

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

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

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

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

Please explain your answer to question 8.9:

5000 character(s) maximum

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

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

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

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

Please explain your answer to question 8.10:

5000 character(s) maximum

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

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

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

9. Addressing the complexity of products

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

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

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

Please explain your answer to question 9.1:

5000 character(s) maximum

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

EUSIPA is of the opinion that complexity is not an adequate feature to be used in any methodology aiming to regulate product governance requirements.

Complexity is highly subjective and thus difficult to define in abstract terms. Complexity often arises from aspects that are meant to work out for the benefit of the investor (as is the case for protection against capital loss, currency conversion or issuer risk, for example) or do cater for an explicit demand. The latter is the case, for example, for structured products with a low-risk basic component (such as an investment grade bond) to which a higher yield potential is "added" by using specific capital market instruments such as options. Complexity as something initiated by the investor increasingly also comes about, to give another example, in the format of the many specific ESG characteristics a financial product can have.

Resorting to complexity as a regulatory concept thus might only be sensible if it were possible to distinguish somehow between “positive” and “negative” complexity, with the first being exempt from regulatory attention that should rather focus on the latter. Complexity however cannot be distinguished into positive and negative categories as, outside the aspect of adding a protection against certain market risks (capital loss, currency devaluation, issuer default) most times complexity is borne out of a structuring effort to achieve a better yield. This intention as such is a capital-markets inherent motivation of all investors which cannot be generally labelled as negative. Complexity therefore is not a useful criterion for regulatory consequences to be based on.

On a more general basis EUSIPA wishes to underline that any changes of the way complexity is anchored as a regulatory concept in EU retail distribution rules, strictly need to be prepared by a wholistic analytical evidence-based exercise looking at all existing relevant regulatory mechanisms that potentially are impacted by such change. This must include but is likely not limited to probing for detrimental or unwanted correlations new complexity-related provisions might have with the existing (or any future) rules on:

- Client categorisation,
- The MIFID target market indication requirement,
- The MIFID suitability and appropriateness test,
- The PRIIPs comprehension alert.

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

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

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

Please explain your answer to question 9.2 a):

5000 character(s) maximum

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

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

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

Please explain your answer to question 9.2 b):

5000 character(s) maximum

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

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

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

Please explain your answer to question 9.2 c):

5000 character(s) maximum

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

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

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

Please explain your answer to question 9.2 d):

5000 character(s) maximum

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

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

- Yes

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

Please explain your answer to question 9.2 e):

5000 character(s) maximum

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

f) Should they have another aim?

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

10. Redress

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

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

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

Please explain your answer to question 10.1:

5000 character(s) maximum

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

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

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

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

Please explain your answer to question 10.2:

5000 character(s) maximum

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

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

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

Please explain your answer to question 10.3:

5000 character(s) maximum

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

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

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

Please explain your answer to question 10.4:

5000 character(s) maximum

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

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

Please select as many answers as you like

- Domestically?
- In a cross border context?

Please explain your answer to question 10.5:

5000 character(s) maximum

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

Certain groups of consumers (e.g. the elderly, over-indebted or those with disabilities) can be particularly vulnerable and may need specific safeguards. If the process of obtaining redress is too complex and burdensome for such

consumers and lacks a specially adapted process (e.g. assistance on the phone), redress may not be an effective option for them.

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

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

Please explain your answer to question 10.6:

5000 character(s) maximum

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

11. Product intervention powers

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

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

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

Please explain your answer to question 11.1:

5000 character(s) maximum

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

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

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

Please explain your answer to question 11.2:

5000 character(s) maximum

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

While EUSIPA does not take a position with regard to the available remit of national authorities' intervention powers, EUSIPA wishes to underline with regard to the application of these powers in practice, that their exercise must strictly follow the lines of the relevant legal requirements set out under MIFIR, with particular attention given to the need to deliver sufficient, solid and reliable quantitative and qualitative evidence for any alleged factual market situation meant to deliver (a part of) the justification to intervene and/or being addressed by the intervention itself.

EUSIPA would welcome a more rigorous practice of ESMA in the verification of whether the level of qualitative and quantitative factual evidence provided by NCAs to ESMA in the notification of their national intervention measures under MIFIR is seen as sufficient.

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

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

Please explain your answer to question 11.3:

5000 character(s) maximum

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

12. Sustainable investing

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

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

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

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

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

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

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

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

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

Please explain your answer to question 12.4:

5000 character(s) maximum

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

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

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

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

Please explain your answer to question 12.5:

5000 character(s) maximum

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

13. Other issues

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

5000 character(s) maximum

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

Additional information

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

The maximum file size is 1 MB.

You can upload several files.

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

Useful links

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

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

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

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