

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

Julian

* Surname

Allen-Ellis

* Email (this won't be published)

julian.allen-ellis@afme.eu

* Organisation name

255 character(s) maximum

The Association for Financial Markets in Europe (AFME)

* 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.

65110063986-76

* 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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China	Israel	Papua New Guinea	United Arab Emirates
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<input type="radio"/> Cyprus	<input type="radio"/> Latvia	<input type="radio"/> Saint Barthélemy	<input type="radio"/> Yemen
<input type="radio"/> Czechia	<input type="radio"/> Lebanon	<input type="radio"/> Saint Helena Ascension and Tristan da Cunha	<input type="radio"/> Zambia
<input type="radio"/> Democratic Republic of the Congo	<input type="radio"/> Lesotho	<input type="radio"/> Saint Kitts and Nevis	<input type="radio"/> Zimbabwe
<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.

AFME is grateful for the opportunity to respond to the European Commission's Public consultation on a retail investment strategy for Europe.

Broadly speaking, yes, the EU retail investor protection framework does sufficiently empower and protect retail investors when they invest in capital markets. This is particularly true in the case of provision within the MiFID/R regime.

In this paper we make some suggestion as to improvements that might proportionately improve empowerment and protection for investors and firms financing themselves on EU capital markets. With respect to PRIIPs (as set out in our answer to Question 4.2.1) we believe that the information included in the PRIIPs KID is sufficiently understandable and reliable and the amount of information is adequate, for the types of products that are intended to be caught by the original PRIIP scope. The PRIIPs Regulation was designed with packaged retail product types in mind. The scope of the Regulation should continue to be limited to these product types as the PRIIPS KID is inappropriate for other financial instruments for which the Regulation was not designed, such as corporate bonds or derivatives, for example.

Additionally (as set out in our response to Question 4.1) we believe that the expansion of the application of KIDS beyond PRIIPs and UCITS would be inappropriate given the different nature, purpose and use of other financial instruments.

We believe efficient and well-developed capital markets are essential to meeting the financing and risk management needs of EU citizens, enterprises and public authorities. Importantly, an integrated and well-functioning CMU would help strengthen EU competitiveness and prospects for economic growth and job creation.

However, we note that the roadmap is focused on direct retail investment. This is certainly an important mechanism for retail investor participation in financial markets, but it should be noted that it is not the preeminent mechanism. The most usual mechanism for retail investors to access financial products and services is through indirect participation via intermediaries. Indeed, Steven Maijoor, former Chair of ESMA, in a speech at the Irish Funds Annual Conference 2020 tilted Retail investors and asset management are the pillars of a successful Capital Markets Union stated, "If we want to see EU capital markets flourish, we need to engage far more with retail and household participants, both directly and indirectly, in this project."

Thus, it is important to recognise that regulatory reforms of the wholesale banking sector will significantly impact outcomes for retail investors. Ultimately, costs are passed onto end investors who interact with financial markets through investments, pension funds and savings. When considering outcomes for end investors it is critical to consider the impacts of regulatory reforms to wholesale markets, which will be transferred to the retail investor in turn.

AFME represents the wholesale banking sector, which serves the end investors, and would like to engage in dialogue with the Commission on the interconnectedness of retail investment and wholesale financial markets to ensure best results for retail investors, European companies and Europe as a whole, consistently with the Union's objectives for the recovery and more broadly the CMU.

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.

As per our answers to questions in Section 4 on Disclosures we believe certain limitations do unduly hinder retail participation in capital markets.

Specifically with respect to the PRIIPs regulation, which was conceived with certain product types in mind. The scope of the Regulation should continue to be limited to these product types as a KID is inappropriate for other product types for which the Regulation was not designed.

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

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

Please explain your answer to question 1.3:

5000 character(s) maximum

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

As described in our answer to Question 1.2 above.

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.

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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.

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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.

In our 2020 AFME response to the EU data strategy ([https://www.afme.eu/Portals/0/DispatchFeaturedImages/2020%2005%2029%20AFME%20EC%20European%20Strategy%20for%20Data%20response%20\(FINAL\)_CLEAN.pdf](https://www.afme.eu/Portals/0/DispatchFeaturedImages/2020%2005%2029%20AFME%20EC%20European%20Strategy%20for%20Data%20response%20(FINAL)_CLEAN.pdf)), we welcomed the focus on data sharing to ensure that the EU remains competitive, becomes a leader in data-driven innovation, and can support broader European goals towards enabling sustainable finance. Data sharing (such as open finance initiatives) could bring opportunities in financial services for improved client products and services, operational and cost efficiencies, innovation and sustainability, and

improvements in fulfilling regulatory and compliance requirements. Adopting new technologies, alongside greater data sharing, such as AI/ML and cloud computing, will be important for realising many of these opportunities.

In our response to the digital finance strategy

([https://www.afme.eu/Portals/0/DispatchFeaturedImages/20200626%20AFME%20EC%20CP%20Digital%20Finance%20\(FINAL\).pdf](https://www.afme.eu/Portals/0/DispatchFeaturedImages/20200626%20AFME%20EC%20CP%20Digital%20Finance%20(FINAL).pdf)), we stated that further examination would be required where, due to regulatory requirements, organisations have had to bear the costs for business models related to open finance initiatives (e.g., where PSD2 has created an unlevel playing field by allowing organisations to develop banking services without incurring the cost of maintaining banking technology infrastructure). By requiring certain entities to share data with third-parties without reciprocation, these initiatives could limit the ability for incumbent firms to invest in innovative technologies and may have negative implications on their ability to maintain and continuously improve their technical infrastructure and business model. It is also essential that firms retain elaborated/inferred data insights they generate within a more open, competitive, and level playing field.

Finally, greater data sharing initiatives such as open finance must protect the security and privacy of firms' data and ensure that any additional regulatory obligations are technology neutral and not duplicative or conflicting with existing requirements (e.g., implementing strong data authentication and security without creating barriers to ongoing innovation).

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.

AFME members recognise the importance of digitisation for financial services and the broader economy, as well as the need to continue supporting the development of digital finance in the EU. Through a combination of initiatives (e.g., financial services specific and horizontal), the European Commission has increasingly embraced digitisation and innovation for the financial sector over the past five years. In a fast-evolving and competitive environment, we welcome the Commission in setting ambitious goals for the adoption and scaling-up of innovative technologies and ensuring clients and firms remain at the forefront of global trends.

In our 2020 review of technology and innovation in European capital markets

(https://www.afme.eu/Portals/0/AFME_TechnologyInnovation_FINAL.pdf?ver=2020-11-13-135131-297), we identified four key technologies - Artificial Intelligence, Cloud Computing, Data & Analytics and Distributed Ledger Technology - that are driving changes across bank functions, the workforce, and engagement with third parties. Example use cases where investment banks are finding benefits from the increased adoption of these technologies include front-to-back process optimisation, Cloud-based client and internal management systems, and Data & Analytics to improve client servicing and risk and regulatory reporting.

To enable the European Commission ambitions for digital finance and a single market for data, we believe the European regulatory framework must be:

- Aligned across all European authorities and their planned initiatives (e.g., vertical and horizontal legislation) to promote harmonisation and consistency for the uptake of new technologies and data sharing,
- Technology neutral and principles-based to provide flexibility for firms and regulators as the pace of

digital change and adoption increases,

- Competitive and promote a level-playing field to ensure all firms involved in financial services adhere to the principle of 'same risk, same activity, same regulation', and
- Globally consistent, wherever possible, to support EU competitiveness and sufficiently mitigate risks.

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.

AFME members welcome the focus of policymakers on improving the efficiency and use of data through new technologies and processes (such as machine-readable documentation). We note the Commission's recent work on the European Single Access Point (ESAP) and EBA Integration Supervisory Reporting initiatives as positive examples.

It is essential that any initiatives focusing on documentation as code (e.g., machine-readable) first consider the use-cases (e.g. which documentation, whether structured or unstructured data, whether static or changing over time), the technical standards and languages that will be used, and security standards. These considerations are important because documentation (such as public disclosures) may be varied in their format, data, and structure, which increases the complexity required to codify. It is important to have a standard data layer, or attributes, to realise the intended benefits of machine-readable documentation initiatives and achieve a solution that can be future-proofed and scaled across the industry long-term (and potentially globally).

We suggest that a detailed assessment is first undertaken to determine the scope (e.g. which documentation), the feasibility of codifying, and the cost-benefit analysis for firms. Standardisation requirements (e.g. standard data inputs, formats, descriptions) must be factored into any future initiatives and the timeline and investment needed for tangible benefits to be achieved.

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.

Blank

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.

Blank

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.

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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.

Blank

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.

Blank

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.

Blank

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.

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

AFME rather agrees that the existing pre-contractual disclosure documentation for investments, including in cases where no Key Information Document is provided, enables adequate understanding.

AFME considers that the use of KIDS should not be expanded beyond the current product scope.

AFME considers that the current disclosures are adequate in terms of breadth of information provided.

The PRIIPs Regulation was designed with packaged retail product types in mind. The scope of the Regulation should continue to be limited to these product types as the PRIIPS KID is inappropriate for other financial instruments for which the Regulation was not designed, such as corporate bonds or derivatives, for example.

An expansion of the application of KIDS beyond PRIIPs and UCITS would be inappropriate given the different nature, purpose and use of other financial instruments. Imposing a single format document (such as a KID) would act to constrain understanding of how those financial instruments work, rather than help it.

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

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.

We believe that the information included in the PRIIPs KID is sufficiently understandable and reliable and the amount of information is adequate for the types of products that are intended to be caught by the original PRIIP scope. The PRIIPs Regulation was designed with packaged retail product types in mind. The scope of the Regulation should continue to be limited to these product types as a the PRIIPS KID is inappropriate for other financial instruments for which the Regulation was not designed, such as corporate bonds or derivatives, for example.

In addition, with reference to the Commission's questions on "Information on sustainability-aspects of the product", it may be difficult without further guidance to understand exactly what information is expected or required. We understand that such guidance may be provided by the adoption of the RTS of the Sustainability Financial Directive Disclosure and, to a relevant extent, the Delegated Acts of the Taxonomy Regulation. We believe that it may be difficult to define and ensure compliance absent such guidance. We propose that the requirement for this information is postponed until finalisation of the relevant regulatory framework.

We also note that information related to past performance may be excessive and not suitable for all kinds of PRIIPs products. We have noted before that if past performance is included, it should only be applicable to Category 2 PRIIPs. We believe that past performance is most relevant for Category 2 PRIIPs, as those would allow past performance comparability between actively managed and passive fund structures/trackers

but avoids the following products: OTC derivatives, structured products and other products with non-linear payoffs, from showing potentially misleading figures.

While we agree that illustrating how a product may have performed in the past may be useful to show a retail investor how the payoff varies under different market conditions, there remains a risk that retail investors unduly rely on past performance as an indicator of future performance, causing problems down the road.

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.

Blank

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.

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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.

Blank

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.

We agree that the PRIIPs KID should generally be a pre-contractual document. However, there are situations where pricing is time-sensitive and waiting for a KID can be detrimental to the client. In these situations, a KID should be able to be provided post-trade. This should be equivalent to the amendments set out in Directive 2021/338 (the "MiFID quick fix") 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 per our answer to Question 4.1 in this Section, AFME considers the status quo for pre-contractual documentation to be adequate and proportionate.

We believe that the regulatory framework currently in force for PRIIPs products generally allows for comparison among different investment products.

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.

KIDS work well for retail financial products that are broadly similar, but seeking to compare very different financial instruments using the same parameters or standardised methodology (eg in a KID format) results in an artificial and potentially misleading comparison of characteristics that are not intrinsically similar. To force a standardised framework on dissimilar instruments requires significant assumptions to be made, which the user of the comparison may not understand and, more importantly, could ultimately give the investor the impression that different instruments are more similar and interchangeable than is in fact the case.

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.

We understand that some of the issues regarding the inconsistency between PRIIPs costs and MiFID costs calculations have been addressed by the revised RTS and Directive 2021/338 (the "MiFID quick fix") but there may be existing inconsistencies.

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.

Blank

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.

Blank

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

☐

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

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

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

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

5000 character(s) maximum

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

AFME members consider the above types of product information characteristics are indeed important. However, as per our answers to Question 4.1 of this Section, AFME believes that the existing pre-contractual disclosure documentation for investments, such as listing information at exchanges and product brochures, including in cases where no Key Information Document is provided, enables adequate understanding.

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.

Whilst AFME acknowledges the significant importance of the information highlighted in Q4.8, we urge caution in any expansion of the scope, application or breadth of KIDS.

AFME considers that the use of KIDS should not be expanded beyond the current product scope.

AFME considers that the current disclosures are adequate in terms of breadth of information provided.

MiFID/R 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).

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.

Current requirements are that ex post costs information is provided to retail investors by firms with whom they have an ongoing relationship. For investors who use firms to execute investment orders on an ad hoc basis, i.e. who do not have an ongoing relationship, firms are required to provide post-trade confirmations on a trade-by-trade basis, which does already include costs information. So annual ex-post information would be duplicative, when there is no ongoing relationship and is already required for retail clients with an ongoing relationship.

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.

The PRIIPs KID is intended to be a concise document that brings out key information for investors (rather than all of the information that would, for example, be included in the offering document) but we believe that strict word count requirements arbitrarily restrict the manufacturer's ability to present the information that retail investors need to understand the instrument and to help them to make an investment decision.

Word limits can in general be very problematic and operationally difficult and therefore .any limits on the information that can be provided to retail investors should be weighed against the related requirements. For example, concerns about requirements for increased narrative descriptions (particularly within the word count and space limitations) may be sufficiently problematic to offset concerns about conciseness and limiting the number of words or amount of space used to provide investor information. We believe that it is very important that the right balance is struck between these two considerations, and that it is struck in a way that both encompasses the concise nature of the KID and includes sufficient information to allow retail investors to better understand these products and to more fully participate in financial markets.

Word counts restrict a firm's ability to explain / disclose information in the form they would like to disclose it. We are concerned because the revised PRIIPs RTS does allow for more narrative explanations (for which we understand and appreciate the reasoning) relating to performance scenarios and the cost tables, for example. This will increase the word count and, if coupled with a 3-page length limit for KIDs, could force firms to consider reducing the font size, potentially making KIDs illegible.

We note that the ESAs recommend in the revised RTS that the length of the KID be increased to 4 pages for those KIDs which show past performance. In light of any increased narrative requirements and other concerns, we believe that the 4-page limit should be extended to cover all PRIIPs KIDs, not just those showing past performance.

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.

AFME considers that the diverse nature of these financial instruments would not be best served by a single format disclosure.

The PRIIPs Regulation was conceived with packaged retail products in mind. The scope of the Regulation should continue to be limited to these product types as a KID is inappropriate for other financial instruments (such as corporate bonds, shares and derivatives, for example). We believe that the KID, as it is designed as of today pursuant to the rules currently in force, already addresses this requirement, since it is an extra document only due for packaged (i.e. complex) products.

In this respect, we believe that (1) disclosure requirements should be proportionate to the complexity of the instruments, meaning that products with complex structures shall be subject to broader information disclosure requirements than is envisaged for simpler ones and (2) adding too many disclosures can result the unintended consequence of introducing too many details in the document and shifting investor's attention towards non-core details.

Moreover, on the uncertainty surrounding the scope of the PRIIPs Regulation, the relevant regulation governing disclosure for products with more complex structures should provide a clear definition of products included in each "complexity cluster", in order to enable manufacturers understand what obligations apply to each type of product.

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.

AFME members report that the majority of wholesale clients prefer receiving information in non-paper format and therefore fully support a phase-out of paper-based information in order to reflect this. In addition, AFME members note that the phasing-out of paper-based information would reduce waste and support the EU's sustainable finance agenda.

AFME members suggest that the regime be amended so that, when information must be provided (including when that information should be in a durable medium), the provision of such information by means of electronic communications shall become the norm and default option.

However, the digital transition to electronic format could turn out to be problematic for those retail clients which have so far relied on paper-based communications due to, for example, (1) age (2) hindered access to technology (3) lack of digital literacy. For these reasons, retail customers should still retain the possibility to receive pre-contractual documentation in paper upon request. This is consistent with new Article 24, paragraph 5a, of the MiFID quick fix.

We expect that most documents will be distributed in electronic format. However, retaining the ability to provide documents in paper format if a client so requests will be important to ensure appropriate client

information, for example for those who do not have access to electronic devices.

In order to achieve this goal, we would recommend that the Commission consider amending Article 14 of the PRIIPs Regulation so as to make the electronic format the default option for providing a KID – whilst also maintaining retail clients' ability to opt to receive a KID on paper format, if they so desire.

In addition, the practical experience of our members is that, in some cases, even existing and new professional clients do not elect to receive electronic communication (e.g. they do not provide the firm with an email address and/or have not switched on the functionality that would allow them receive electronic communications). It is therefore important that firms can continue to provide paper documents to both professional and retail clients, as well as eligible counterparties, so that clients who have proactively elected to receive paper documents as well as clients - including professional clients - who have not switched on the option for receiving electronic communications or have not provided the firm necessary information, such as an email address, can continue to receive appropriate information about financial services and instruments provided to them.

We believe that the proposed approach could strike the right balance between the need to recognize the existence of increasing consumer demand for and use of online services on the one hand, and the need to recognize that not all investors have access to digital devices (or indeed want to receive electronic disclosures) on the other.

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.

AFME has observed that translation requirements have tended to reduce information documents distribution.

To increase cross border business within the EU the most important aspect to consider is the specific needs of the individual client. The client relationship with the investment firm should dictate the appropriate information documents language, not the geographical area inhabited by the client nor provider.

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

Please explain your answer:

5000 character(s) maximum

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

As per our answers to Question 1 of this Section, AFME believes that the existing pre-contractual disclosure documentation for investments, including in cases where no Key Information Document is provided, enables adequate understanding.

As per our answers to Question 4.12 of this Section, AFME members report that the majority of wholesale clients prefer receiving information in non-paper format and therefore fully support a phase-out of paper-based information in order to reflect this, as long as it remains possible to provide information in paper format where either the client so requests or where it is necessary to do so (e.g. because the client has not given electronic contact details). In addition, AFME members note that the phasing-out of paper-based information would reduce waste and support the EU's sustainable finance agenda. Disclosure documentation should be provided in non-paper digital format but clients should reserve the right to paper upon request.

Information should be available for the lifetime of the product.

Information be written in plain, easily intelligible language with adequate explanation of complex terminology and avoiding jargon.

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

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

Please 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.

Information provided via digital means should be in an easily accessible and readable format.

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.

The PRIIPS Regulation provides a good overview and a consistent document for use across Europe. It is also helpful to investors in making an investment decision, and an improvement on the previous framework. It is difficult, however, to gauge whether it has resulted in the benefits outlined in this section. To our knowledge, investors have not stated or otherwise indicated whether the PRIIPs KID has increased their ability to understand and compare products, decreased the risk of mis-selling, or increased their ability to assess a product's suitability. An investor survey or other engagement with investors might be helpful in this context.

We generally believe that the PRIIPs Regulation is a helpful development, and that it has filled a gap in helping to ensure that retail investors receive clear, concise and transparent information. It represents the first concrete step towards documentation related to such instruments and is intended to provide retail investors with clear, non-misleading information that will help them to make an informed investment decision. However, a balance must be reached between the need to provide retail investors with relevant and

adequate information and a desire to preserve the concise nature of the document. This is related to word count limitations as well as the question of what information should be included in the PRIIPs KID or is relevant for investors in this context.

We would reiterate that the PRIIPs Regulation was conceived with certain product types in mind. The scope of the Regulation should continue to be limited to these product types as a KID is inappropriate for other product types for which the Regulation was not designed.

In addition, the extension of the Regulation beyond what we see as its original intention means that some parties are deciding not to offer certain financial products to retail investors in the primary markets. This is because the uncertainty and the high level of potential fines for a manufacturer who does not comply with the requirement to produce a KID (which those who produce or sell PRIIPs are required to provide to retail investors) has resulted in issuers and their advisers taking a cautious view, such that any instrument that does not have completely fixed returns may be a PRIIP, and therefore designating almost all new issuances of such instruments as not intended for retail. For example, there has been uncertainty around how a callable make whole feature in an otherwise fixed rate corporate bond should be treated for the purposes of the PRIIPs definition. However, the Joint European Supervisory Authority's Supervisory Statement on the application of the PRIIPs Regulation to bonds, which was published on 24 October 2019, goes a long way to clarifying this position.

The high potential liability for a manufacturer whose KID is misleading, inaccurate or inconsistent with the relevant parts of the legally binding pre-contractual and contractual documents or with the content requirements, also discourages manufacturers from entering the retail market.

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.

Blank

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.

Please see our response to Question 5.1(a).

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.

Blank

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

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

Please explain your answer to question 5.2:

5000 character(s) maximum

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

We note that Article 5, paragraph 1 of the PRIIPs Regulation requires that the manufacturer publish the KID on its website, and therefore a PRIIPs KID is placed on the issuer's website and/or a link to the document is provided to relevant retail investors. In addition, KIDs and relevant information can be obtained through third-party services and information providers. Therefore, we believe that retail investors are easily able to find and access PRIIPs KIDs.

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

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

Please explain your answer to question 5.2.1:

5000 character(s) maximum

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

Blank

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.

While we believe the PRIIPs KID is a useful document, we also believe that, for simpler products, it should be possible to produce a standardized KID that generally describes how a product works without the need to include specific figures (e.g. performance scenarios and costs). This would enable retail investors to be provided with a KID in good time before a transaction in situations where time is of the essence (e.g. in FX

transactions). It would also lower the costs of production of KIDs for simpler instruments. This would also help to strike the right balance between making the PRIIPs KID a concise and clear document and the need to provide investors with all relevant KID information.

It would also be helpful to permit the PRIIPs KID to be provided in a language chosen by the manufacturer rather than the language of the retail investor's relevant jurisdiction. This would, in certain cases, reduce the time and expense of issuing a PRIIPs instrument. Especially, for example, when an entire relationship with the retail customer is conducted in a certain language that may not be the official language of their jurisdiction of residence and the customer is happy to confirm that they can understand that language.

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.

Permitted optionality with respect to the requirement (if requested) to notify the competent authority in advance about a PRIIPs KID (Article 5(2)) that is being marketed in such jurisdiction has created, and will likely create in the future, inconsistencies in the way that the PRIIPs Regulation is implemented and has in some cases restricted the availability of certain products to retail investors.

This requirement, when applicable, encompasses a burdensome and time consuming process, which sometimes requires not only the information available in a KID, but also additional information (and often with a very tight deadline). Some of this additional information does not appear to be suitable, straightforward or easy to implement.

Optionality in this respect has certain negative effects, as different approaches may undermine the purposes of the European single market and the proposed Capital Markets Union. It may also have a negative effect on competition, as parties may gravitate towards those jurisdictions that do not require such notification. In addition, any such requirement would increase costs for issuers in those jurisdictions that impose more requirements, as well as creating other barriers to entry (i.e. reduced investor choice) for investors, if those jurisdictions are avoided or offerings are otherwise restricted.

These requirements may have negative implications for both PRIIPS manufacturers in the jurisdiction that imposes such requirements, and on foreign manufacturers that take such requirements into account when deciding where and how to offer a PRIIPS product. Therefore, for the reasons above, we believe that the rules granting optionality to each Member State should be re-assessed in the context of the upcoming review of the PRIIPS Regulation to provide flexibility for manufacturers to choose whether or not to notify the competent authority of their KID. This could potentially decrease the supervisory burden on competent authorities, while also making the entire process more efficient, less costly and less time-consuming. Any

such re-assessment would also be consistent with the goal of promoting more uniform implementation of the PRIIPs regulatory framework within each EU Member State.

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.

The ability of different national competent authorities to interpret and determine the scope of the PRIIPs Regulation has also caused uncertainty and inconsistencies in application and has also, in some cases, restricted the availability of certain products to retail investors. Any such diverse interpretations also create some of the same problems and barriers to certainty and consistency across Europe as those referred to in our response to 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.

It would be difficult to calculate and provide specific information about the cost of manufacturing a PRIIPs KID because this depends on various factors, including (A) the model adopted by the specific intermediary for manufacturing PRIIPs documents (e.g. which activities are carried out internally/carried out by a third-party supplier, and to what extent) and (B) the nature of the products (e.g. some products require the KID to be updated more frequently than other products).

In any case, in order to produce the KID and otherwise comply with the PRIIPs Regulation, parties must construct and implement an adequate infrastructure to create a KID and to keep it up to date. The cost of maintaining these systems can be substantial. Therefore, we do not believe that the cost of producing or updating a single KID is a relevant metric as it is marginal compared to the substantial cost of building and maintaining an adequate operational infrastructure.

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.

Blank

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.

Blank

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.

Blank

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.

Blank

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.

Blank

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

Please select as many answers as you like

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

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

5000 character(s) maximum

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

Implementation of any required changes to the content or layout of the KID would be cost intensive and would likely slow down the time to market. Therefore, it is crucial to evaluate the cost / effectiveness of any such changes to avoid any negative or unintended consequences (i.e. fewer investments offered, higher costs, etc). In some cases, maintaining the systems to identify and monitor triggers for updating the KID can be costly/difficult.

There are also costs associated with having two or more sets of wording about the same financial instrument (e.g. the KID and other required regulatory disclosures). This relates to legal risk, as PRIIPs manufacturers /corporate issuers are subject to the rules governing the offering of securities to the public, and the timing

and content of disclosures to investors in offering documents are strictly regulated. PRIIPs manufacturers / corporate issuers typically rely on third parties to prepare the offering documents and need to sign off that a 3-page KID is consistent with an offering document that often exceeds hundreds of pages.

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.

Blank

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.

Any generic KID would have to be carefully calibrated to ensure that it is appropriate and satisfies the objectives of the Regulation. For example, if such document requires significantly more figures than a traditional KID, this may increase investor confusion and it be more difficult for them to invest in the relevant

products.

As noted in Section 10 of the ESA's Joint Consultation Paper concerning amendments to the PRIIPs KID, in the case of a generic KID it is difficult for the investor to identify the total costs related to a particular investment option, as the generic KID shows a range of costs, but does not always identify which costs are specific to an investment option and which costs relate to the insurance contract. In addition, the underlying investment option (in accordance with Article 14 of the PRIIPs Delegated Regulation), does not usually include the total costs of investing in that option. Therefore, the consultation noted that it is often not possible for the investor to identify from the generic KID the costs that may apply in addition to those shown in the option-specific information.

In addition, certain respondents to the ESA's consultation were critical of a proposal focused on the four most commonly selected investment options for various reasons including: (a) the approach is not meaningful in the case of products where the investment selection is left entirely to the retail investor, (b) the proposal would introduce a new type of document in addition to the generic KID and relevant specific information (c) the (four) options selected are likely to be taken as recommended options; (d) it is not clear how some aspects of the proposals are to be implemented in practice, such as determining how and whether the most commonly selected options adequately reflect a diversity of investment objectives; (e) this approach will increase the number of KIDs, and this was a particular concern where the PRIIP manufacturer had already decided to prepare several KIDs for the same product, such as reflecting different possible holding periods; and (f) in the absence of consumer testing it is not possible to know whether the proposals will be an improvement.

Similarly, many respondents expressed criticism of the proposal to provide a range of costs per asset class within the generic KID since, as also acknowledged by the ESAs in their consultation paper, this proposal would introduce significantly more figures in the generic and result in an overload of information for certain types of retail investor.

It is also worth noting that some types of PRIIPs may offer multiple (hundreds of) investment options which have a specific risk, performance and cost profile, and which differ from option to option. Moreover, the underlying investment options may be investments in PRIIPs or other investments of a similar nature, or standardized portfolios of underlying investments.

For these reasons, we would not support the proposal that requires provision of only one information document for the whole multi-option-product, depending on the underlying investment options that the retail investors would prefer, as this would be problematic. It would risk introducing an enormous burden on manufacturers (i.e. it would force manufacturers to prepare a single customized KID based on underlyings).

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 your answer to question 5.10 a):

5000 character(s) maximum

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

We do not see compelling reasons for amending Article 2, paragraph 2, letters (e) and (g) of the PRIIPs Regulation, and in particular, for including within the scope of the Regulation pension products which, under national law, are recognized as having the primary purpose of providing the investor with an income in retirement and which entitle the investor to certain benefits.

In our view, these products have peculiarities and objectives which do not make the PRIIPs Regulation the best legislative mechanism for ensuring appropriate disclosure relating. Namely, these products are characterized by different features vis-à-vis the products falling within the scope of PRIIPs Regulation e.g. time-horizon, conditions to access them, options available to participants, potential benefits, risk profile etc.

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 your answer to question 5.10 b):

5000 character(s) maximum

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

Please see our response to Question 5.10(a) above

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.

While we agree that the ability to access past versions of PRIIPs KIDs from a manufacturer may be useful in showing how its product portfolio has evolved (e.g. evolution of risk indicators, costs, investment strategies, performance scenarios, etc.), which cannot be understood from simply looking at the latest versions of PRIIPs disclosure documents of currently marketed products, we believe that the PRIIPs KID is most relevant to investors at the time they make their investment decision. In this respect, we note that under existing rules, while a client holds a live PRIIP instrument, the client has the ability to access past versions of the KID on request. See Article 14(5) of the PRIIPs Regulation - Regulation (EU) No 1286/2014.

Any additional relevant information is provided to retail investors under Article 10 of the PRIIPs Regulation and Articles 15 and 16 of Delegated Regulation 2017/653, pursuant to which information contained in the KID must be regularly reviewed and, where this review indicates that changes need to be made, the KID must be revised and this revised version promptly made available. This is instrumental in providing retail investors with information which is updated and, therefore, which continues to be reliable in relation to the relevant PRIIPs instruments.

Therefore, we do not generally believe that retail investors need to have widespread access to past versions of PRIIPs KIDS, as the KID is a pre-contractual document and is most relevant at the time that investor makes the investment decision. In any case, any requirement for keeping past versions of a PRIIPs KID and making it available to investors should be limited to a reasonable time period and other appropriate conditions.

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.

We agree with and understand the current framework where a PRIIPs KID must be updated (at any time) in connection with certain significant events (i.e. those related to the moderate performance scenario, SRI, liquidity and RIY) and believe that these are an appropriate trigger. We do not, however, believe that general updates should be provided more frequently than every 12 months. We believe that 12 months is an appropriate frequency for keeping investors apprised of relevant information while also lessening the costs and other burden of issuing and maintaining a PRIIPs instrument.

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.

Blank

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.

Blank

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.

Blank

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.

Blank

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.

Blank

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.

Blank

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.

Blank

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.

Blank

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.

The product governance regime currently permits sale of products to clients in the negative target market, with associated regulatory guidance making clear that this should be a rare occurrence in need of significant justification by the distributor. AFME members note that, in practice, many distributors choose only to sell within the manufacturer's target market due to the operational burdens involved in producing their own target markets. However, there may be circumstances in which it is in the best interests of a client to distribute a product to them, notwithstanding that the client falls within the manufacturer's negative target market for the relevant product (such as for portfolio diversification or hedging purposes). Accordingly, AFME members feel that the regime already provides an appropriate degree of investor protection, and further restrictions on sale to negative target markets is both unnecessary and could inhibit the ability of firms to provide their clients with appropriate products.

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.

Blank

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.

Blank

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.

Blank

7. Reviewing the framework for investor categorisation

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

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

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

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

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

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

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

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

The majority of AFME members agree with ESMA's recommendation, as set out in its Technical Advice to the Commission on the impact of the inducements and costs and charges disclosure requirements under MiFID II (ESMA35-43-2126), that the creation of a new category of "semi-professional" or "sophisticated retail" client is not necessary or desirable, and would create additional unnecessary complexity to the current regime.

That being said, AFME members are fully supportive of other less operationally burdensome and more effective options to facilitate greater access to financial markets by retail investors.

AFME members note that the existing client classification rules can be overly restrictive since they do not take into account the full experience in financial markets of a retail client when considering if the client is sufficiently sophisticated to trade in a particular instrument.

A firm may treat a client (other than a local public authority or municipality) as an elective professional client if it complies with both a qualitative assessment and at least two of the following quantitative criteria:

(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;

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

(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.

In the view of AFME members, the element of the quantitative test that member firms often find not fit for purpose is limb (a) which relates to trading history. This test sets a high bar because it requires a demonstration of 40 previous transactions on the relevant market, spaced out over the previous four quarters. This neglects any assessment of clients who may have a lifetime of trading in equivalent instruments but for various reasons, have not in the previous quarter or clients who can evidence recent transactions in instruments of equivalent complexity which make it reasonable to assume the client is sophisticated enough to enter into a new transaction type.

This can be particularly problematic for newly incorporated corporate clients who may not warrant the full scope of the retail investor protection regime but who have no trading history or financial instrument portfolio on which to base the per se professional quantitative assessment. If such companies could draw on the trading history or assets of their principals (on whose knowledge and experience they can already rely for the purpose of the qualitative assessment), it would allow them, in appropriate cases to opt up to elective professional status, which general speaking, is more appropriate for these entities.

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

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

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

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

5000 character(s) maximum

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

As per our answers to Question 7.1 and 7.2, AFME members are of the opinion that the number of transactions undertaken does not give a useful reflection of knowledge nor experience.

The trading history test sets a high bar because it requires a demonstration of 40 previous transactions on the relevant market, spaced out over the previous four quarters. This neglects any assessment of clients who may have a lifetime of trading in equivalent instruments but for various reasons, have not in the previous quarter or clients who can evidence recent transactions in instruments of equivalent complexity which make it reasonable to assume the client is sophisticated enough to enter into a new transaction type.

The trading history test sets a high bar because it requires a demonstration of 40 previous transactions on the relevant market, spaced out over the previous four quarters. This neglects any assessment of clients who may have a lifetime of trading in equivalent instruments but for various reasons, have not in the previous quarter or clients who can evidence recent transactions in instruments of equivalent complexity which make it reasonable to assume the client is sophisticated enough to enter into a new transaction type.

This can be particularly problematic for newly incorporated corporate clients who may not warrant the full scope of the retail investor protection regime but who have no trading history or financial instrument portfolio on which to base the per se professional quantitative assessment. If such companies could draw on the trading history or assets of their principals (on whose knowledge and experience they can already rely for the purpose of the qualitative assessment), it would allow them, in appropriate cases to opt up to elective professional status, which general speaking, is more appropriate for these entities.

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.

Blank

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.

The key reason the legislator set a minimum asset limb to the test was to ensure that only retail clients that have a significant ability to bear losses can opt out of the more protective retail regime. These considerations remain highly relevant, so we would suggest that rather than decreasing the threshold, the Commission increase it.

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.

A position of responsibility relating to finance, including demonstrating you have been authorized to trade would appear to be a relevant additional option to demonstrate that one has the ability to understand the consequences of one's decision in a way that is more similar to that of professional clients than the average retail investor. Evidence of the client having taken investment decisions on their own behalf over a significant period of time could also be relevant.

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.

We do not suggest additional criteria but do think that both knowledge and wealth thresholds should be reached in order to opt out of the retail investor protection regime and into the professional sphere.

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

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

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

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

5000 character(s) maximum

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

Blank

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.

We consider that newly incorporated corporate entities, that may not warrant the full scope of the retail investor protection regime but who have no trading history or financial instrument portfolio on which to base the per se professional quantitative assessment, should be able to opt to be treated as professional clients. If such companies could draw on the trading history or assets of their principals (on whose knowledge and experience they can already rely for the purpose of the qualitative assessment), it would allow them, in appropriate cases, to opt up to elective professional status, which, generally speaking, is more appropriate for these entities.

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

The regime regarding inducement established by the MiFID II regulatory framework is consistent with the requirement for investment firms to operate in the best interest of clients.

The disclosure regime on inducement as per MiFID II and further detailed by Delegated Directive (EU) 2017/593 (which requires both ex-ante and, in certain circumstances, ex-post disclosures of permitted inducements) currently in force is characterized by a high degree of clarity, understandability and comprehensiveness.

Therefore, we would also advise against i) introducing additional rules, for example, introducing a ban on all forms of inducements as well as ii) complicating and detailing the existing ones e.g.: introducing specific record-keeping and reporting requirements for distributors.

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.

AFME members are not supportive of establishing an outright ban on inducements. AFME members agree with the position expressed in ESMA's Technical Advice to the Commission that a ban may have uneven and potentially unexpected impacts across the EU given the prevalence of different distribution models in different Member States.

AFME agrees with ESMA's conclusion in paragraph 36 of its Technical Advice to the Commission on the impact of the inducements and costs and charges disclosure requirements under MiFID II (ESMA35-43-2126), which states that ESMA does not recommend that the Commission bans inducements completely for all retail products in the EU without first conducting an impact assessment. AFME is of the view that any review of the current rules on inducements should be mindful of the potential for unintended consequences.

Potential consequence of a ban on inducements on availability of advice.

We would warn against the unintended consequences of the introduction of an outright ban on inducements for all retail products across the EU level. The complete prohibition of inducements might have unintended consequences:

- the intermediaries would be forced to charge commission/fees for their investment advice services and
- the majority of clients would refuse to receive investment advice.

In this regard, it must be noticed that at least in some jurisdictions, investors are not ready and willing to pay for advice for many reasons e.g. behavioural, historical etc. Noticeably, this point was also recognized by ESMA in its technical advice.

In the final analysis, investment advice would no longer be available for relatively large sections of investors.

There are two particularly problematic aspects associated to this outcome, which are related each other.

1.First, access to investment advice risks being impaired to those retail investors who mostly need it i.e. retail investors with small portfolios and relatively low financial literacy thereby depriving them of the opportunity to save optimally for later consumption or retirement.

2.Second, an inducement ban risks creating an “advice gap” to the detriment of low-income clients since they would either not afford advice or it would be too expensive compared to their investments i.e. such proposal would have redistributive and asymmetric effects being socially inequal and thereby penalizing the above-mentioned clients. What indicated above seems confirmed by the initial studies on the topic.

In particular, studies have shown that as a consequence of the introduction of an inducement ban investors have been excluded from investment advice because they were not offered investment advice at all or they were redirected to other services (like execution only) or they were just unable or unwilling to pay.

In the end, the above-mentioned outcomes in terms of diminished availability of advice do not seem consistent with the fundamental EU policy objectives to further enhance capital markets in the EU and to promote access to capital markets by retail investors as set out by the European Commission in the Capital Markets Union (CMU) Action Plan and by the Retail Investment Strategy.

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.

AFME notes studies in the German and Spanish markets on the effect of a total ban on inducements.

AFME suggests that if a total ban on inducements was imposed across the EU, an explicit fee for advice would be required to be charged. It is likely under these conditions that only High Net Worth investors would be in a position to take up such an offer. Thus, the likely effect of a total ban on inducements would be an overall reduction of client access to advice.

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.

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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.

The effects of the ban should be interpreted in the light of the specific features of different national markets and, in particular, of the distribution models prevailing there. However, in the light of the evidence found in question 8.2.a) above, there will be, in all likelihood, a decrease in overall investment caused by the reduction in the financial instruments issued.

As a matter of fact, without the help offered by the recommendations and the periodic assessment of the suitability of their investments retail investors, would face greater difficulties in deciding whether to carry out new investments and in which financial instruments.

In the end, the above mentioned outcomes in terms of reduced variety and number of products offered by intermediaries to their clients (with particular reference to mass market retail clients) do not seem consistent with the fundamental EU policy objectives to further enhance capital markets in the EU and to promote access to capital markets by retail investors as set out by the European Commission in the Capital Markets Union (CMU) Action Plan and by the Retail Investment Strategy.

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 checked="" type="radio"/>
In the case of inducements paid to providers of online platforms/comparison websites?	<input type="radio"/>	<input checked="" type="radio"/>	<input type="radio"/>

Please explain your answer to question 8.3:

5000 character(s) maximum

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

We perceive the application of the regulations in the case of online platforms and transparency of inducements is not entirely harmonised across Europe.

However, the inducements regime established by MiFID II is consistent with the requirement for investment firms to operate in the best interest of clients. Please see also our answer to Question 8.1 above.

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.

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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.

Overall AFME would support a simple and proportionate regime for the regulation of inducements in line with the existing MiFID regime.

AFME would counsel against the introduction of increased complexities of calculation as could be introduced with the other options above not selected.

It is very often the case that the introduction of what are intended to be enhancements to the regime that

might appear conceptually attractive do in fact introduce increased red tape, complexity and unintended problems in practical application. AFME therefore suggests negative consequences could be best avoided by refraining from adjustments to the inducements regime.

In our opinion, the current rules established by the MiFID II Regulation relating to:

- the acceptance of payments from third parties other than the clients in relation to the services provided; and
- the disclosure of inducements received/paid to clients both in ex ante and in ex-post information;

are characterized by a high degree of clarity, understandability and comprehensiveness.

Therefore, we would advise against introducing additional rules.

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.

There have been reports that many zero commission brokerages operate business models receiving payments for order flow (PFOF) from third parties, such as market makers.

Within Europe, poorly supervised third-party arrangements could lead to a number of conflicts with MiFID II provisions around conflict of interest and best execution. Under MiFID II, firms are required to take all appropriate – rather than reasonable – steps to identify and prevent or manage any conflicts of interest “between themselves...and their clients...including those caused by the receipt of inducements from third parties” (Article 23(1), MiFID II). MiFID II also explicitly states that firms need to prevent conflicts of interest in the first instance and to rely on disclosure only as a last resort. These requirements are set out under Articles 23, 24 and 27 within MiFID II which cover conflicts of interest, best execution and inducements respectively.

AFME members believe that these rules have created a well calibrated framework which ensure that investors are suitably protected and that investment firms' primary goal is to achieve best execution outcomes for their clients. AFME also notes that some national competent authorities have chosen to comment on the issue of payment for order flow including the AMF (Speech by Robert Ophèle, AMF

Chairman, March 2021 <https://www.amf-france.org/en/news-publications/public-statements/speech-robert-ophele-amf-chairman-rosenblatt-securities-11th-annual-european-market-structure>) and FCA (FCA supervisory guidance, April 2019 <https://www.fca.org.uk/publication/multi-firm-reviews/payment-for-order-flow-pfof.pdf>). Additionally, ESMA's statement dated 13 July 2021 shows that it is possible to give guidance on how the existing rules can be applied in a PFOF scenario to encourage greater supervisory convergence.

AFME believes that the carefully calibrated – and well established – MiFID II rules covering investor protection are fit for purpose and require no further amendment. Should the Commission or ESMA believe that greater clarity might be necessary (e.g. through the issuance of guidelines) AFME stands ready to assist ESMA and NCA's in the development and implementation of any such guidance.

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.

Blank

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:

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

Blank

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.

Blank

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.

Blank

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.

Blank

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.

Blank

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.

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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.

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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.

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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.

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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.

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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.

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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.

Blank

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.

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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.

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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.

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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.

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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.

Blank

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.

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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.

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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.

The existing inducements regime does not mandate content for research produced. In general research content and format is decided by client preference. AFME believes that the content of research should be left to market forces to dictate. It would be a sub optimal outcome for incremental adjustments to be introduced whereby research producers would be mandated to include certain elements of content.

AFME would counsel against introducing a second, duplicative layer of requirements, where there already exists an EU taxonomy for ESG disclosures.

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.

AFME is grateful for the opportunity to respond to the European Commission's Public consultation on a retail investment strategy for Europe. AFME welcomes the European Commission's planning towards a comprehensive strategy for retail investors, building on the CMU HLEF report of June 2020.

AFME has been a strong supporter of the Capital Markets Union (CMU) initiative, an EU project which aims to further integrate Europe's Member States and reduce barriers to cross-border finance. AFME's General Recommendations in the context of the CMU are highly supportive of establishing a comprehensive EU retail investment strategy.

The CMU Action Plan announced the Commission's intention to propose a retail investment strategy for the first half 2022 that should seek to ensure that retail investors can take full advantage of capital markets and that rules are coherent across legal instruments. That retail strategy will also build on Action 8 of the CMU action plan.

We believe efficient and well-developed capital markets are essential to meeting the financing and risk management needs of EU citizens, enterprises and public authorities. Importantly, an integrated and well-functioning CMU would help strengthen EU competitiveness and prospects for economic growth and job creation.

However, we note that the roadmap is focused on direct retail investment. This is certainly an important mechanism for retail investor participation in financial markets, but it should be noted that it is not the preeminent mechanism. The most usual mechanism for retail investors to access financial products and services is through indirect participation via intermediaries. Indeed, Steven Maijoor, former Chair of ESMA, in a speech at the Irish Funds Annual Conference 2020 tilted Retail investors and asset management are the pillars of a successful Capital Markets Union stated, "If we want to see EU capital markets flourish, we need to engage far more with retail and household participants, both directly and indirectly, in this project."

Thus, it is important to recognise that regulatory reforms of the wholesale banking sector will significantly impact outcomes for retail investors. Ultimately, costs are passed onto end investors who interact with financial markets through investments, pension funds and savings. When considering outcomes for end investors it is critical to consider the impacts of regulatory reforms to wholesale markets, which will be transferred to the retail investor in turn.

AFME represents the wholesale banking sector, which serves the end investors, and would like to engage in dialogue with the Commission on the interconnectedness of retail investment and wholesale financial markets to ensure best results for retail investors, European companies and Europe as a whole, consistently with the Union's objectives for the recovery and more broadly the CMU.

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

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

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

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