

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
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- 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

Marianne

* Surname

Jarlaud

* Email (this won't be published)

m.jarlaud@amf-france.org

* Scope

- International
- Local
- National
- Regional

* Level of governance

- Parliament
- Authority
- Agency

* Organisation name

255 character(s) maximum

* Organisation size

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

Transparency register number

255 character(s) maximum

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

* Country of origin

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

- | | | | |
|---|--|--|--|
| <input type="radio"/> Afghanistan | <input type="radio"/> Djibouti | <input type="radio"/> Libya | <input type="radio"/> Saint Martin |
| <input type="radio"/> Åland Islands | <input type="radio"/> Dominica | <input type="radio"/> Liechtenstein | <input type="radio"/> Saint Pierre and Miquelon |
| <input type="radio"/> Albania | <input type="radio"/> Dominican Republic | <input type="radio"/> Lithuania | <input type="radio"/> Saint Vincent and the Grenadines |
| <input type="radio"/> Algeria | <input type="radio"/> Ecuador | <input type="radio"/> Luxembourg | <input type="radio"/> Samoa |
| <input type="radio"/> American Samoa | <input type="radio"/> Egypt | <input type="radio"/> Macau | <input type="radio"/> San Marino |
| <input type="radio"/> Andorra | <input type="radio"/> El Salvador | <input type="radio"/> Madagascar | <input type="radio"/> São Tomé and Príncipe |
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| <input type="radio"/> Aruba | <input type="radio"/> Faroe Islands | <input type="radio"/> Martinique | <input type="radio"/> Sint Maarten |
| <input type="radio"/> Australia | <input type="radio"/> Fiji | <input type="radio"/> Mauritania | <input type="radio"/> Slovakia |

- Austria
- Azerbaijan
- Bahamas
- Bahrain
- Bangladesh

- Barbados
- Belarus
- Belgium
- Belize
- Benin
- Bermuda
- Bhutan

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

- Burkina Faso
- Burundi

- Finland
- France
- French Guiana
- French Polynesia
- French Southern and Antarctic Lands

- Gabon
- Georgia
- Germany
- Ghana
- Gibraltar
- Greece
- Greenland

- Grenada
- Guadeloupe

- Guam

- Guatemala
- Guernsey
- Guinea
- Guinea-Bissau

- Guyana

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

- Mauritius
- Mayotte
- Mexico
- Micronesia
- Moldova

- Monaco
- Mongolia
- Montenegro
- Montserrat
- Morocco
- Mozambique
- Myanmar/Burma

- Namibia
- Nauru

- Nepal

- Netherlands
- New Caledonia
- New Zealand
- Nicaragua

- Niger

- Nigeria
- Niue
- Norfolk Island
- Northern Mariana Islands

- Slovenia
- Solomon Islands
- Somalia
- South Africa
- South Georgia and the South Sandwich Islands
- South Korea
- South Sudan
- Spain
- Sri Lanka
- Sudan
- Suriname
- Svalbard and Jan Mayen
- Sweden
- Switzerland

- Syria

- Taiwan
- Tajikistan
- Tanzania
- Thailand

- The Gambia

- Timor-Leste
- Togo

- Tokelau
- Tonga

- Cambodia
- Cameroon
- Canada
- Cape Verde
- Cayman Islands
- Central African Republic
- Chad
- Chile
- China
- Christmas Island
- Clipperton
- Cocos (Keeling) Islands
- Colombia
- Comoros
- Congo
- Cook Islands
- Costa Rica
- Côte d'Ivoire
- Croatia
- Cuba
- Curaçao
- Cyprus
- Czechia
- Democratic Republic of the Congo
- Hungary
- Iceland
- India
- Indonesia
- Iran
- Iraq
- Ireland
- Isle of Man
- Israel
- Italy
- Jamaica
- Japan
- Jersey
- Jordan
- Kazakhstan
- Kenya
- Kiribati
- Kosovo
- Kuwait
- Kyrgyzstan
- Laos
- Latvia
- Lebanon
- Lesotho
- North Korea
- North Macedonia
- Norway
- Oman
- Pakistan
- Palau
- Palestine
- Panama
- Papua New Guinea
- Paraguay
- Peru
- Philippines
- Pitcairn Islands
- Poland
- Portugal
- Puerto Rico
- Qatar
- Réunion
- Romania
- Russia
- Rwanda
- Saint Barthélemy
- Saint Helena
- Ascension and Tristan da Cunha
- Saint Kitts and Nevis
- Trinidad and Tobago
- Tunisia
- Turkey
- Turkmenistan
- Turks and Caicos Islands
- Tuvalu
- Uganda
- Ukraine
- United Arab Emirates
- United Kingdom
- United States
- United States Minor Outlying Islands
- Uruguay
- US Virgin Islands
- Uzbekistan
- Vanuatu
- Vatican City
- Venezuela
- Vietnam
- Wallis and Futuna
- Western Sahara
- Yemen
- Zambia
- Zimbabwe

- Denmark Liberia 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.

The AMF supports that European texts, in its remit, have been positive in terms of improving investor protection. As an example, and as stated in question 11.1, the adoption of product intervention measures in relation to CFD and binary options by ESMA and consecutively by NCA has been positive to reduce the significant investor detriment. However, in order to better empower and protect retail European investors when they invest in capital markets, the AMF believes that some improvements could be made to the current passporting framework to ensure a higher level of protection of EU investors and ultimately increase confidence in the single market for investment services (cf. Question 1.6). The AMF also believes that some further improvements could be brought to the product intervention powers granted to ESMA to further enhance investors' confidence in the European capital markets (cf. questions 11.1 to 11.3). In the AMF's view, the MiFID 2 framework could also be adapted, in a targeted manner, by proportionate adjustments concerning the assessment of suitability, product governance and client categorization, with a view to enabling more investors to invest in capital markets (see answers to relevant sections). The consistency between the texts (notably between MiFID 2 and IDD) is also essential for the coherence of the investor protection framework and the construction of a genuine Capital Markets Union (CMU). A good knowledge of investors' behaviour by each Member State (through reporting, such as the MiFID 2 transaction reporting) could also help regulators to better understand retail investors' behaviour and ultimately better design rules and regulation. This is also a prerequisite for effective investor protection. In terms of retail investors' empowerment, the AMF tends to support that a greater empowerment of retail investors by the current protection framework is possible whilst it is important to bear in mind that many differences, in terms of financial literacy, saving tendencies and cultural aspects, remain between members' states which have an effect on investors' behaviour and "financial awareness". One example the AMF has witnessed is that « new investors » using digitalisation to invest in the markets, through applications for example, tend to not understand when they are acting under the « execution-only » regime, or when they are being provided a non-advised versus an advised service. "Sophisticated" investors, on the other hand, should benefit a proportionate protection, not hindering investment in the economy. In the spirit of the MiFID 2 Recovery package, adopted in February 2021, the retail investment strategy needs to adequately balance the requirements to protect investors on the one hand and to facilitate the provision of investment services and performance of investment activities on the other. In the AMF's view, European regulation should clearly bear in mind that the investment advice and portfolio management services are protective services adapted to clients who are not able or do not wish to take investment decisions in complete autonomy. Conversely, order services (Reception-Transmission of Orders - "RTO" - and execution of orders on behalf of third parties) must correspond to services where the client is responsible for his/her own investment decisions. For these services, it should be recalled that a proportionate protection regime is desirable, as long as the customer has received clear, visible and complete information, grouped together on the same medium, on these services, the essential elements of the contract (general conditions, withdrawal period, complaints, ombudsman and competent courts) and the consequences in terms of liability to be provided these services. Firms must then be ensured that clients have understood these consequences. Finally, the AMF believes that we have yet to receive evidence that PRIIPs has achieved a positive impact on retail investors' decision making process. The retail investment strategy should examine the impact of PRIIPs and specifically how certain key concepts have been implemented. The AMF would support an in-depth review of this regulation which would take stock of the early experience with PRIIPs. In particular, we would envision major changes in certain key assumptions, such as: (i) reinforcing the need for "accuracy" for investor information over "simplicity" but in a language that remains understandable; (ii) reassessing the supposed value of comparing financial products with completely different characteristics in terms of investors' investment time horizon and purpose; and (iii) revising the use of forward-looking performance scenarios for non-guaranteed products, which according to our analysis proves extremely misleading for retail investors. Whilst this review is pending, we would not be in favour of extending the current scope of the regulation, in particular to funds which currently provide investors with a UCITS KIID.

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.

Existing limitations are justified, in the sense that they effectively protect investors participating in capital markets (see answer to question 1.1). However, some requirements may further disincentivise product manufacturers or issuers in developing or offering products for retail investors, resulting in certain cases in unduly hindering retail investor participation in capital markets. We are aware that sales intermediaries and distribution channels also play a role in defining and possibly limiting the type of products that retail investors are able to access and invest in. Greater access for retail investors could be achieved by fostering an environment where retail investors have access to multiple product distribution channels, while giving them an adequate protection. Finally, it is important to maintain access to advice for less educated people including for investment in shares.

The AMF also remains open to adjustments to client categorisation criteria, as answered in section 7, which could answer potential difficulties of access to some products (by clients with experienced knowledge or education in finance, for example), products that can have a role in the recovery. The AMF agrees that some retail clients with a certain level of experience and financial surface are receiving too many information (that has the opposite effect to the initial goal) and potentially not having access to sophisticated products.

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

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

Please explain your answer to question 1.3:

5000 character(s) maximum

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

As stated above, certain regulatory requirements such as PRIIPs may further disincentivize product manufacturers or issuers in developing or offering products for retail investors. The AMF is also of the view that the tax advantages of some products (like life-insurance contracts) potentially eclipse other financial products, at least in France. The European financial landscape lacks of simple offers, covering different time-horizons and which are cost-effective with guaranteed products for risk-averse consumers. In this respect, the AMF views the introduction of a requirement to check the “value for money” of - at least - some products offered as an interesting road to explore (see answer to question 8.1).

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

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

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

5000 character(s) maximum

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

See answer to question 1.3.

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

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

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

Please select as many answers as you like

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

Please specify to what other area(s) you refer in 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.

Although the single market and the passporting regime work properly to a large extent, there are still phenomena of regulatory arbitrage between countries ("jurisdiction shopping"), difficulties in the allocation of responsibilities of home and host supervisors, complex legal issues raised by the juxtaposition of passports for freedom of establishment and freedom to provide services ("FPS"), and differences in investor rights between jurisdictions. The Joint Committee (JC) of European Supervisory Authorities has investigated possible ways to improve the functioning of the passport and made recommendations to co-legislators in this respect (see Report on cross-border supervision of retail financial services published 9 July 2019, ref. JC /2019-22). The AMF supports these recommendations and urges co-legislators to work on them.

In particular, the AMF suggests that:

- It should be required from investment firms to register their offices in Member States where they carry out at least part of their services. This would give effect to the existing recital 46 of MiFID 2 providing that NCA should not grant, or should withdraw, authorisation where a firm has clearly chosen a country to avoid stricter standards of other Member states where they actually perform their activity.
- As a way to enforce this obligation, the home NCA should have the power to withdraw authorisation of investment firms which, following a certain delay, still do not provide a significant part of their services in the home Member State.
- Article 86 of MiFID 2 should be amended as suggested by ESMA in its technical advice on sanctions under MiFID 2 (ESMA35-43-2430, page 20).
- The host NCA should be entitled the right to require the home NCA to re-examine whether an investment firm acting under FPS still complies with the conditions for its initial authorisation, in particular regarding the marketing strategy and arrangements of the firm.

Considering that issues raised by firms operating under FPS can trigger more substantial cross-border issues among different Member States, the AMF believes that ESMA should also be involved in these processes and a "joint action" of several host NCAs should be possible as per article 45b of ESMA Regulation on coordination group, in case several NCAs are facing similar issues.

These suggestions should not only be reflected in MiFID 2 but also in other texts dealing with investor protection, on a cross-sectoral approach.

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.

See above.

2. Financial literacy

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

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

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

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

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

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

5000 character(s) maximum

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

The AMF strongly welcomes the inclusion of financial literacy/education as a top priority in the European Commission's CMU action plan. Indeed, knowledgeable investors capable of making informed decisions are key to the construction of a dynamic single market in financial services.

In this perspective, the joint initiative by OECD and the European Commission to build a financial literacy competence framework is a very positive step forward and has to be supported. The twofold approach of this initiative, targeting adults on the one hand, and youths on the other, is adequate as stakes are very different for these two types of stakeholders: for youths, financial literacy should be handled already at school, where education on how to manage a budget and save (with key concepts like compound interest) should be developed - in France, this lies within the remit of the central bank, Banque de France. For adults, the focus will lie on ensuring that people have the right knowledge and understanding to allow for proper investment behaviours and decisions.

Notwithstanding Member States' competence on education, there is room to develop European initiatives to ensure coherence and coordination, to a certain extent, in the field of financial literacy/education.

In particular, the AMF is in favour of establishing pan-European financial literacy campaigns aimed at retail investors on issues of common interest amongst EU Member States - i.e. concepts that have the same meaning in all EU jurisdictions and/or issues on which Member States have the same positioning, like the risk and performance of financial products. These topics are of crucial importance for retail investors in order (i) to make well informed decisions and also (ii) to avoid scams. It would therefore make sense to undertake actions at European level on such issues.

Scams, in particular, have been a major problem in many EU Member States for several years. Huge losses have been incurred on different kind of investment/products offers, always with the same selling/marketing techniques and arguments. Research showed that there is no clear or standard profile of victims of financial scams and that no one is immune to the risk of being targeted by such frauds. Some of the reasons behind the development of scams are the context of low interest rates and the development of the internet. The Covid-19 pandemic has even strengthened this development. On such topic, it would be easy and very beneficial for investors to establish a common message at the European level. It is important that the savings of European citizens are used to finance the economic recovery in the EU, rather than the development of criminal organisations.

Amongst other issues of cross-border relevance that would benefit from messages conveyed at European level are (i) the risks and performance of financial products (which are also linked to scams, as the latter may make investors wrongly believe that they can get huge returns without any risk); and (ii) the different time horizons of projects and investments offered.

Finally, and although the main responsibility for financial education lies with Member States - most of them having financial literacy strategies with educational content available to retail investors and consumers, it has been observed that the educational content made available by national initiatives is often not well enough known from consumers. In order to raise awareness on these contents at a pan-European level, far-reaching multi-channel campaigns (TV, press, web, social media...) are necessary to convey common messages and images. Considering the high costs that would be involved, and to reach the highest number of European consumers/potential investors, such multi-channel campaigns should be organised and financed at the European Commission level.

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.

Open finance could give the potential for financial services to provide better access and services to consumers and businesses as well as a better transparency and customised services for investors. Therefore, we support the principle of open finance but believe that this approach should only be considered at a later stage, once open banking has been completed. This will allow to benefit from the experience acquired through the implementation of open banking.

Nowadays, financial stakeholders must complete exhaustive audits of each consumer's finances to assess their financial capacity and KYC and AML/CFT profiles. However, without the ability to access the data held by different banks, this process can be time-consuming, based on partial declarations and vulnerable to human error. In an open finance ecosystem, financial stakeholders would get a better understanding of a consumer's financial situation and investors should be able to be more easily engaged with financial products and make more informed decisions.

However, despite the many benefits open finance can bring, some challenges remain to ensure a successful implementation.

First, lessons learned from open banking should contribute to the proper implementation of the open finance' rules. It seems that for many institutions subject to open banking obligations, the API implementation exercise has been quite cumbersome. An open finance framework will probably lead other financial industry stakeholders to the same findings. Thus, the future approach to open finance should lead to less implementation difficulties than what has been faced under the Payment Services Directive 2 (PSD 2).

Moreover, we should be vigilant regarding the side effects of data portability. As a result of open finance, investors will have the opportunity to more easily withdraw their data in favour of another financial stakeholders or third party providers. This is true for any type of financial product even for long maturity products such as life insurances or Real Estate Investment Company' shares.

Therefore, we should ensure that data portability would not have the effect of encouraging French retail investors to shift more from long-term to short-term investments. Consequently, such side effect will need to be addressed in order to improve the quality of services provided to investors and to support the long-term competitiveness of the European industry.

Finally, technical standardization and cross-challenges friction need to be taken into consideration. Technical standardisation will be key for open finance success and retail investor protection. The future open finance framework will have to ensure strong clarity on the way data shared will be used as well as on the way data can be technically accessed including whether data is shared in real-time (e.g. standardised APIs). As a result, the implementation of open finance will require a quick adoption of standards and some lessons will need to be learned from the PSD 2 experience in that respect.

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 s e c t o r ?

Please explain your answer

5000 character(s) maximum

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

Please see answer to question 3.1.

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.

Imposing a machine-readable format for pre-contractual disclosure documents would enable distributors of certain product types, in particular multi-options insurance products, to create tailor-made product information reflecting investors' choice of options and amounts allocated. This would also allow digital innovation in the field of robo-advice and distribution.

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.

In the AMF view, other obstacles can restrict investors' access to investment products in other EU markets. The language barrier, closed product distribution systems and national bias are the main obstacles to the promotion of financial services throughout the European Union. In this regard, local supervision of products authorized in other Member States could constitute a powerful tool to reassure savers interested in taking up these products. The AMF is of the view that, in case a firm targets an investor located in another Member State, it should be using the local language all along the consumer journey (marketing - including indirect such as information provided through hyperlinks, claims, ombudsman, courts).

Similarly, in view of the existing differences between products, the quality of professional advice to clients should remain the central element in financial product distribution in order to prevent any risk of massive mis-selling. However, this advice should take into account a large number of factors, and this should be the case for each Member State. Tax treatment is another major barrier to the cross-border provision of financial products among Member States. The social and economic organisation of Member States also has to be taken into account when setting up a single market.

Differences in rights must be taken into account prior to considering any systematic marketing throughout the European Union. Financial products are frequently embedded in mechanisms that draw on company or civil law (property or inheritance law for example). However, there is still considerable disparity among the Member States, which creates a major risk of consumers not being able to identify all existing risks, which they may think they are protected against by their national regulations, whereas this may not be the case at all. The European market is also still criss-crossed by major cultural differences. These specific cultural aspects also play a role in the way information should be addressed to savers.

The AMF is of the view that all advertising or information documentation must be adapted to local populations so that it can play its role to the full: inform, explain, and warn. The tone of the content and the way it is written should be such that the public can easily assimilate all the necessary information. Advertising is based fundamentally on the cultural codes and specificities of the targeted population. This holds true for consumer products, and should be even more valid for products such as financial investments that have such major implications for the future of an individual. It is essential that any form of advertising or commercial document is subject to the supervision of the host country authorities, which are the only ones able to know all the local cultural codes.

On the other hand, should member states come to face big digital market players (like GAFA) becoming involved in the marketing and distribution of highly speculative products to local investors, the AMF believes that the ESA should be empowered to support the NCA's dialogue with such players with a view to enforce European regulation applicable to the marketing of such investment products in the EU.

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.

In the AMF's view, the best approach regarding online advertising is to make investors' protection rules, especially those relating to information and marketing, applicable to any person involved in the advertisement of financial products. European requirements should follow here a minimum harmonisation approach. In this respect, it should be noted that the French regulation (stemming from the "Sapin 2 law") provides with a mechanism that regulates all participants in the advertising chain (media buyers, ad space buyers, media or ad sales companies, ad broadcasters, etc.) by banning any direct or indirect electronic advertising likely to affect retail investors and covering financial contracts considered to be speculative and risky (i.e. binary options, CFDs and foreign exchange contracts). The AMF also has a partnership with the French advertising self-regulatory organization (Autorité de regulation professionnelle de la publicité, ARPP), to efficiently collaborate on financial products' advertisement regulation. Such an approach should be favoured in the European regulation.

The European regulation should also directly tackle solicitation.

It is observed that in case of selling complex and/or risky products (MIFID or not MIFID, such as crypto assets), any providers use leads to attract the investor. Investor fills a form and gives, by himself/herself, his /her mail or telephone number. This amounts to marketing of financial products and should be considered as canvassing/solicitation (as provided in the French Action Plan for Business Growth and Transformation law, "PACTE law", passed on 22nd May 2019).

The AMF is also of the view that advertising is based fundamentally on the cultural codes and specificities of the targeted population. This holds true for consumer products, and should be even more valid for products such as financial investments that have such major implications for the future of an individual. It is essential that any form of advertising or commercial document is subject to the supervision of the host country authorities, which are the only ones able to know all the local cultural codes.

In terms of enforcement, the AMF supports the following measures, which emerged from discussions in the IOSCO workstream on online marketing and digitalisation project:

- The European financial regulation framework should encourage regulators to adopt proactive technology-based detection and investigatory techniques to support credible detection and investigations of potential

digital illicit conducts;

- The European regulation should give the power to NCA or any other relevant authority to promptly take action where websites are used to facilitate illegal securities activity and other powers effective in curbing on-line illegal misconducts: the powers need to be sufficient to be effective, including the power to shut down or block access to illicit websites, or seeking a legal order to do so, where appropriate;
- The European financial regulation framework should encourage an efficient international cooperation and liaison with criminal juridical authorities and other relevant partners;
- The European regulation should reflect on a way to enhance accountability and collaboration of providers of electronic intermediaries services;
- Regulatory and supervisory arbitrage should be addressed (please refer to answer to question 1.6 on jurisdiction shopping).

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.

When it comes to rules on online advertising and marketing of investment products, the AMF supports a minimum harmonisation legislation. Also, as answered to Question 3.4, facing multinational advertising group, the ESA should be in capacity to deal with bad practices regarding advertising and marketing of speculative and risky investment products stemming from some international big players.

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.

As part of its remit for market supervision, the AMF closely monitors French stocks constantly, paying special attention when there is a topical event or a risk. To do so, we are supported by our systems based on big data technology and artificial intelligence. We also monitor social media, and have done so for many years now. Among other things, we have developed tools to detect messages most likely to influence stock markets and to track scams on social media. These tools allow us to witness the growing influence of social media in influencing retail investment behaviour. Aware of this growing influence of social media and, with this, greater potential for a new kind of market abuse, the AMF is working on a partnership with the Digital Regulation Expertise Centre (PEReN: Pôle d'Expertise de la Régulation Numérique) of the French Ministry for the Economy and Finance to develop a social media scanning tool for detecting bots possibly creating an impression of mass when only a limited number of people might be at their origin.

The AMF supports that ESA could also have a role to play in the monitoring of social media, influencers and platforms acting on a cross-border basis.

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

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

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

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

- Yes

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

Please explain your answer to question 3.9:

5000 character(s) maximum

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

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

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

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

Please explain your answer to question 3.10:

5000 character(s) maximum

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

The AMF believes that, generally speaking, current EU rules are considering technological developments appearing in the investment services' provision (like robo-advice, for example) in an efficient way. This consideration needs to be made in compliance with the technology neutrality principle. In the AMF's view, this means that a technology specificities applicable to investment services should be taken into account in the Level 2 or 3 of European texts.

The European authorities and the European regulation should also closely monitor new trends appearing in the online environment.

The use of digital means makes it however more difficult to determine the location where a service is being provided, which is key to determine which rules should apply to protect investors, whether there is cross-border provision of services and, in the European context, whether it falls under the Freedom to Provide Services or the Right of Establishment regime and, as a consequence which competent authority is responsible for its supervision. The JC SC CPFI recommended in its report issued in July 2019 that EU co-legislators should provide clarity on this point (see paragraph 80 of the report).

Updating the European Commission interpretative communication on the freedom to provide services and

the interests of the general good in the Second Banking Directive could be a starting point to define criteria for investment services localization. It could also answer several recommendations of the above-referred JC SC CPFI report. The AMF supports that the service should be deemed to be provided in the country where the retail investor is located as soon as he/she is being targeted by the firm. The host NCA should consequently be competent.

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.

The AMF considers that the criterion of appearance of such products should be the SRRI or risk indicator, rather than performance, which can be misleading for investors' understanding. Time horizon is also an important criterion. For equity investments, for example, time horizon is a key indicator to take into account, as equity investments are the right diversification solution for very long-term horizons.

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 checked="" type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>
The costs associated with the product	<input type="radio"/>	<input checked="" type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>
The expected returns under different market conditions	<input type="radio"/>	<input checked="" type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>
The risks associated with the product	<input type="radio"/>	<input checked="" type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>

Please explain your answer to question 4.1:

5000 character(s) maximum

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

The AMF conducts regularly qualitative studies on the clarity of information documents for retail investors. These studies show that the documents are often hard to understand and lack clarity, in particular the prospectus of a fund or a structured product. The essential information is hard for retail investors to spot in this document which is viewed as too complicated.

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

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

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

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

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

Please explain your answer to question 4.2.1:

5000 character(s) maximum

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

Our qualitative studies show that the PRIIPs KID is not always understood by retail investors. Firstly, PRIIPs' KID information can be misleading.

In PRIIPs, one example relates to the level 1 requirement to provide investors with "appropriate performance scenarios", which has been interpreted by legislators as a requirement for product manufacturers to include forward-looking performance information. Probabilistic methodologies initially designed to predict the performance of all retail products, regardless of their features (e.g. guaranteed performance or not), were very misleading to investors, as evidenced by the back testing of such scenarios recently performed by ESMA and other national competent authorities and consumers' feedback, in the context of the L2 revision. We welcome the ESAs' proposal to abandon probabilistic methods for standard funds, such as UCITS.

However, in the context of the current holistic review of retail investors' needs, we strongly believe that all forward-looking performance scenarios should be abandoned for non-guaranteed products, and replaced by information on existing products' past performances and, for new and existing products, an explanation of performance drivers illustrating how a given product is expected to behave under different market conditions.

Another example deriving from PRIIPs' level 1 is the requirement to include summary cost indicators comparable across products, which has been interpreted by legislators as requiring the use of a cost indicator expressed as a reduction in yield (RIY). The practice of using a RIY only existed prior to PRIIPs in some EU markets for certain insurance products, often comprising guaranteed returns features. Extending this concept across EU markets and products has raised the most difficult of challenges for products, which do not have guaranteed performance features. Providing investors with reliable information regarding the

cost of their products while basing this cost information on the estimated performance of the product is very challenging. Whilst we continue to express concerns about the very notion that certain methodologies enable product manufacturers to predict the performance of such products, we are even more concerned that methodological biases would prevent investors from accessing clear and accurate information about the costs of products offered to them. In that respect, we support the view of consumers' representatives and consider that (1) PRIIPs cost information is inadequate to compare costs between funds (unlike what is currently possible with the UCITS KIID) and (2) the RIY approach is too complex and misleading (e.g. the costs of a more expensive product may appear lower than that of a low-cost product due to the methodological bias). We therefore support their proposal that the RIY indicator be replaced with a cost indicator expressed as a percentage of the amount initially invested as has always been customary on most EU markets. Secondly, the amount of information provided in the PRIIPs KID does not appear adequate or proportionate to retail investors' needs. For instance, the PRIIPs KID includes information about so-called "transactions costs", which PRIIPs defines as costs incurred by a professional portfolio manager when acquiring or selling assets held within a fund (as opposed to costs incurred by an investor as a result of buying or selling units of the fund, as commonly understood). Beyond a well-founded criticism of the method used to evaluate such transaction costs, one key concern is that these are only one of the many operational costs incurred by the portfolio manager in order to implement a fund's investment strategy. These operational costs also include, for instance, costs incurred in relation to the remuneration of fund personnel, use of office space and any necessary resources, such as equipment and research, and even the payment of fees to service providers, fund auditors or even the supervisory fee. All of these operational costs are reflected in aggregate in the fund's net asset value and communicated to investors in the UCITS KIID under the past performance information section. While regularly surveying retail investors' information needs to achieve better investment decisions, we have not come across any evidence of a need for all or certain operational costs, such as transaction costs, to be itemized in the key information document and particularly in the costs table. Therefore removing this information from the costs table in the PRIIPs KID would enable investors to focus on truly decisive fund characteristics. Another example concerns information on the performance fees mechanisms required under ESMA guidelines, which are not included in the PRIIPs KID, or information relating to benchmarks used (also required under ESMA guidance) or SFDR disclosures. A focus on the target investor for the product could add significant value to the product description in the PRIIPs KID.

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	<input type="radio"/>					

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

product (conditions, coverage etc.)	<input type="radio"/>					
Information on cost and charges	<input type="radio"/>					

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

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

Please explain your answer to question 4.2.2:

5000 character(s) maximum

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

Question 4.2.3 PEPP Key Information Document

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

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

PEPP Key Information Document (as a whole)	<input type="radio"/>					
Information about the PEPP provider and its services	<input type="radio"/>					
Information about the safeguarding of investments	<input type="radio"/>					
Information on cost and charges	<input type="radio"/>					
Information on the pay-out phase	<input type="radio"/>					

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

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

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

Please explain your answer to question 4.2.3:

5000 character(s) maximum

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

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

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

Please explain your answer to question 4.3:

5000 character(s) maximum

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

No. Firstly, as mentioned before, the AMF conducts regularly qualitative studies on the clarity of information documents for retail investors. These studies show that the documents are often hard to understand and lack clarity.

When drafting the PRIIPs KID, commonly used words in financial products were deemed too technical to be understood by a retail investor with limited to non-existent financial literacy. These have been replaced by others, often losing in precision and at times accuracy (e.g. narratives describing forward-looking performance scenarios). Although we support simplifying investor information and avoiding unnecessarily technical terms or jargon, this should not result in compromising on accuracy or precision where necessary. Perhaps there is a need to reaffirm that the less financially literate consumers or those that don't want to take time and energy to be fully autonomous should benefit of the assistance of a professional. Although intermediation can be costly and is already widespread in the EU, it is also the only way to bridge the financial literacy gap that exists with a lot of retail investors. It is necessary to maintain an environment in favour of advised and non-advised services with a real choice for the savers.

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.

The KID should be provided at the same time as the marketing material for the product. This should be imposed through a European requirement and not be left at the discretion of Member States.

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.

In PRIIPs, within a given product type, the risk indicator may be meaningful to compare products with similar features, except in the case of multi options insurance products where risks are expressed as a range (often encompassing the full available scale of risk indicators). Conversely, across product types, the costs and performance indicators are biased with methodological assumptions, which impair the comparability objective. In any event, we support reassessing the supposed value of comparing financial products with completely different characteristics in terms of investment horizon and investors' purpose.

When looking to fulfil a specific financial need or priority, investors should be reviewing only financial products within the relevant subset of products that have the capacity to address such need or priority. If the consumer is not financially literate enough to independently identify that subset of suitable products, then he /she should be encouraged to turn to a professional financial advisor.

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.

Though this should ideally be the case, in practice, such objective appears challenging and it may sometimes be deceptive to set comparability as the ultimate goal of EU legislation, as our experience with PRIIPs reveals. While PRIIPs aims to facilitate comparability between products, retail investors' investment decisions should not be reduced to deciding between products. In reality, investment decisions are very complex and start with retail investors evaluating first their needs and objectives (e.g. buying a car or a house, generating an income for retirement, succession planning) and then the category of products most suitable to achieve these objectives. Comparison between products will eventually take place within the chosen product category.

As a result, the PRIIPs KID becomes useful to investors only at the very last stage of the investment journey, when the decision has been narrowed down to a particular product type, considered suitable to fulfil the investor's financial needs and priorities. Therefore although a degree of harmonization of product information is desirable, it should not be to the detriment of information accuracy or usefulness. For instance, forward-looking performance scenarios are not adequate for non-guaranteed products (or without guaranteed features) such as standard funds but could be useful in the case of insurance products with a guaranteed performance or certain banking products, structured around the occurrence of specific market events. As we can see from these two examples, applying one single approach/methodology to performance information for all product types for the sake of comparability, may not be appropriate. We recommend to revisit PRIIPs by giving prominence to accuracy (devising methodologies that make sense for each type of products) over comparability at all costs (i.e. not forcing methodologies on product types for which they are not well-suited).

Therefore, in the case of information provided via the PRIIPs KID, we do not support aiming for comparability between products at all costs, and particularly not at the cost of product information of lesser quality and value for the consumer. Pre-contractual documentation should primarily focus on providing clear and factual information about any given product.

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.

Cost calculations method and split are inconsistent between PRIIPs and MiFID.

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.

Risk measures for funds under UCITS enable a more granular evaluation than on the basis of the PRIIPs method.

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

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

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

5000 character(s) maximum

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

Forward looking scenarios in PRIIPs are inconsistent with standard approaches to performance for non-guaranteed or non-structured financial products, such as the UCITS approach to performance, for instance.

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

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

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

5000 character(s) maximum

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

MiFID 2 and IDD diverge on several points, which is regrettable. We hold the view that similar investment products should be treated in a consistent way. In particular, MiFID 2 financial instruments and insurance products, with similar characteristics, should equally be subject to the same costs and charges disclosure regime. On inducements, we observe that competition may be distorted because of the fact that inducements rules under MiFID 2 are stricter than those under IDD for insurance products. We call for cross-sectoral consistency between MiFID products and investment products with similar characteristics. All these issues were highlighted by ESMA in its technical advice on inducements and costs and charges (March 31, 2020), whose conclusions we support.

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

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

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

Target investor or investor's objective (i.e. target market or negative target market), as well as time horizon are important elements.

Please explain your answer to question 4.8:

5000 character(s) maximum

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

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

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

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

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

Please explain your answer to question 4.9:

5000 character(s) maximum

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

On the one hand, the AMF believes that the current MiFID 2 regime is sufficiently strong to ensure costs and cost impact transparency for retail investors. Attention should however be drawn on zero-commission offers. As explained in ESMA's statement published in July 2021, there is clearly a need for “zero-commission brokers” (i.e. some firms executing clients’ orders and marketing their services as bearing no costs for investors) to be reminded of the MiFID 2 requirement to provide fair, clear and not misleading information to their clients and to provide information on all costs and charges to the client relating to the service and the financial instrument(s). As clients of “zero-commission brokers” will always incur costs (e.g. implicit costs and third party payments received by the firm), the AMF supports ESMA’s view that the marketing of the service as “cost-free” in the circumstances described above, will infringe the firm’s compliance with the MiFID 2 requirements and it could incentivise retail investors’ gaming or speculative behaviour due to the incorrect perception that trading is free.

On the other hand, the AMF doesn't support, for feasibility reasons, to require an annual ex post information on costs, beyond the cases where the client has an ongoing relationship with the investment firm, as required today. In case the investment provided is a one-off service, e.g. a RTO or execution service, without any ongoing relationship, the investment firm has no mean to know what the client did with such financial instrument he/she might have sold through another investment firm later on. Therefore, while not disagreeing with the overall objective, the AMF views this as unfeasible.

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.

For funds, one of the big issue with the PRIIPs KID is that it does not leave any room for some of the required disclosures under UCITS level 3 rules, such as in relation to performance fees mechanisms and benchmarks. As we know, the UCITS label has proved its value over the many decades since it was first envisioned. Successive reviews of the directive and its delegated acts have enabled a fine degree of precision of regulatory expectations in terms of product information, work which was undertaken under the stewardship of the Commission, CESR then ESMA as well as competent national authorities. Should the PRIIPs KID eventually replace the UCITS KID, existing level 3 disclosures should be incorporated in the PRIIPs KID either in supplemental pages or (our preferred option) by customizing existing section of the PRIIPs KID.

As mentioned before (see answer to question 4.2), the AMF conducts regularly qualitative studies on the clarity of information documents for retail investors. Pre-contractual information has been tested and most of the time it is hard to understand and lacks clarity, even KIID and PRIIPs KID. It is not only a question of length, but also of form, like the font size, colours or the density, and of the use of a plain language instead of a too technical terminology.

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.

For more complex products, additional information is needed to explain the product to retail investors, in particular on what is complex and what is risky, in order to ensure that retail investors understand the product or understand that the product is complex (in some cases too complex for him).

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.

However, digitalization should not be seen as a way to only tackle the issue of investors receiving too much paper but also as a way to enable the development of more diverse distribution networks.

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

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

Please explain your answer to question 4.13:

5000 character(s) maximum

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

The translation of information documents into the official language of the country where the product is distributed is a key element for retail investors' protection. Retail investors need clear and understandable information. If it is not in their language, it is in most cases not understandable.

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

Please explain your answer:

5000 character(s) maximum

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

Although PRIIPs aims at facilitating comparability between products, retail investors' investment decisions should not be reduced to deciding between products. In reality, investment decisions are very complex and should start with retail investors first evaluating their needs and objectives (e.g. buying a car or a house, generating an income for retirement, succession planning) and then evaluating the different ways to achieve these objectives, including via a financial product subject to PRIIPs.

Therefore another way to simplify the KID is to require that the product manufacturer includes information about the target market (and possibly negative target market) and the target investor in a given product with respect to the investment horizon, possible capital guarantees (or not), possible performance guarantees (or not) etc., This section could include the risk-reward profile of the product, which would no longer be a standalone piece of information but rather be provided with context.

See also Question 4.1, 4.2 and 4.10 on AMF qualitative studies on the clarity of information documents for retail investors.

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 checked="" type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>
Certain key information (e.g. fees, charges, payment of inducements, information relative to performance, etc.) is displayed in ways which highlight the prominence?	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input checked="" 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 type="radio"/>	<input type="radio"/>	<input checked="" type="radio"/>	<input type="radio"/>	<input type="radio"/>
Contracts cannot be concluded until the consumer has scrolled to the end of the document?	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input checked="" type="radio"/>	<input type="radio"/>
Other?	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>

Please explain your answer to question 4.15:

5000 character(s) maximum

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

5. The PRIIPs Regulation

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

Core objectives of the PRIIPs Regulation

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

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

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

Please explain your answer to question 5.1 a):

5000 character(s) maximum

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

The KID does not improve the level of understanding of retail investors because it fails to provide clear and accurate information on financial products customarily purchased in the market we oversee, such as multiple-options insurance products and funds. Costs and performance indicators in particular are lacking in meaningfulness and may mislead investors in certain cases.

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.

Within product types, the risk indicator may be meaningful, except for multiple-options insurance products where risks are expressed as a range (often encompassing the full available scale of risk indicators). Across product types, the costs and performance indicators are biased with methodological assumptions which impair the comparability objective.

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.

We have not seen any change in numbers or patterns of consumer complaints we receive.

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.

The PRIIPs KID does not play any role in enabling retail investors to determine their financial needs, objectives and/or risk-reward appetite. Retail investors need a third party such as a professional adviser to help them assess their investor profiles. If such professional services are available to the investor, it is likely that that professional – not the PRIIPs KID – will play a significant role in enabling retail investors to correctly choose the most suitable product.

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.

As the EU is essentially an intermediated market, under the current state of play, a retail investment will often involve an adviser recommending a financial product to that retail investor and responsible for providing all required documentation. We are not aware of any issues in these documents being effectively provided, however we are aware of an issue with investors effectively reading these materials (as evidenced in our regular studies). This could be caused by a number of reasons:

- Distributors use marketing materials to explain the characteristics of the product and not the regulatory document. The KID is delivered at the final end of process. It is not considered as the fundamental document required for the customer dialogue. If it were, it would be a fantastic leverage to grow the financial culture, and the savers' know how.
- KIDs are not as "reader friendly" as marketing materials.
- Some of the information within the KIDs is not relevant (e.g. forward-looking performance scenarios) and/or difficult to understand (e.g. RIY cost indicator).
- In the case of a multiple-option insurance product, where an investor is offered to choose between for instance 5 different options, the investor would typically be provided with 18 pages of documentation (3 per each option + 3 for the generic KID) as well as documentation pertaining to IDD or MiFID related disclosures. Note that, on the French market, multiple-options product offered via retail banking or insurance networks often offer a very wide range of underlying options (e.g. 50 or more) reflecting the full management capabilities of investment managers within a banking or insurance group. Considering the upcoming SFDR template required by the Sustainable Finance Disclosures Regulation ("SFDR") of roughly 10 pages, suitability reports and other reporting, it is unreasonable to expect that a majority of investors will carefully read all of the information provided. In our view, digitalization should not be seen as a way to bypass this issue of investors receiving too much paper but merely as a way of enabling the development of more diverse distribution networks.

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 checked="" type="radio"/>	<input type="radio"/>
Requiring PRIIPs KIDs and PEPP KIDs to be uploaded onto a searchable national database	<input type="radio"/>	<input checked="" type="radio"/>	<input type="radio"/>

Requiring PRIIPs KIDs and PEPP KIDs to be made available in a dedicated section on manufacturer and distributor websites	<input type="radio"/>	<input checked="" 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.

Regarding the proposal to require PRIIPs KIDs and PEPP KIDs to be uploaded onto a searchable EU-wide or national database, the AMF believes that this should remain a private initiative driven by distribution networks. First, there is no evidence that retail access to financial markets is impaired by lack of access to product KIDs and secondly, we see the provision of the KID as an intrinsic obligation of the distributor along with all other regulatory disclosures such as those deriving from IDD, MiFID or SFDR. Requiring such a database should be based on a genuine cost-benefit analysis. The AMF supports in any case a greater availability of data contained in the KIDs.

On the idea to require PRIIPs KIDs and PEPP KIDs to be made available in a dedicated section on manufacturer and distributor websites, we have no evidence that the investor decision-making process is primarily based on the KID and rather suspect that marketing materials often play a key role instead. By essence, marketing materials are designed to be more appealing than standardized regulatory documentation. Should we encourage or even require distributors to have a dedicated KID section separate from the marketing material, we fear that the investor would rarely consult those dedicated sections.

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.

Our first point is that the KID should not compromise on accuracy for the sake of supposed simplicity, which is a real risk with the state of play with PRIIPs. One of the premises that PRIIPs is founded on has been an evidence-based knowledge that consumers' financial literacy level is usually minimal or even non-existent, which in PRIIPs has led to certain words, phrases or concepts being banned for being too technical (e.g. the word "probability" of a performance scenario occurring, the use of cost indicators expressed as a percentage of the amount invested deemed too complex) and being replaced by supposedly simpler but definitely more misleading ones.

For instance, as developed under question 4.2 above, cost indicators are expressed as a reduction in yield

of the expected performance of the product, an indicator layered with methodological assumptions, which is very misleading for products where performance is not guaranteed. Another example are the forward-looking performance scenarios, which have been determined to be simpler than the provision of factual information about the parameters influencing the way a given financial a product is likely to behave in different market circumstances. In reality, the use of forward-looking performance scenarios indeed tends to create misconceptions and mislead investors into believing that performance is predictable. Most financial products defined as a PRIIP do not offer a guaranteed performance therefore forward looking scenarios should essentially be removed from the KID to avoid misleading investors.

Our second point is that, although PRIIPs aims at facilitating comparison between products, retail investors' investment decisions should not be reduced to deciding between products. In reality, investment decisions are very complex and should start with retail investors first evaluating their needs and objectives (e.g. buying a car or a house, generating an income for retirement, succession planning) and then evaluating the different ways to achieve these objectives, including via a financial product subject to PRIIPs.

Therefore another way to simplify the KID is to require that the product manufacturer includes information about the target market (and possibly negative target market) and the target investor in a given product with respect to the investment horizon, possible capital guarantees (or not), possible performance guarantees (or not) etc. This section could include the risk-reward profile of the product, which would no longer be a standalone piece of information but rather would be provided with context.

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.

We are aware of uncertainties in interpreting whether particular products are in scope, such as bonds with various attributes (as listed in the ESAs letter to the Commission of July 2018). We are also concerned about possible misalignments of practices in relation to employee savings or pension schemes.

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.

National competent authorities exercise their supervisory role as they deem adequate for the risks of their particular markets. We do not see any reason to challenge existing supervisory practices in relation to the PRIIPs KID.

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

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

€

Please explain your answer to question 5.6 a):

5000 character(s) maximum

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

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

€

Please explain your answer to question 5.6 b):

5000 character(s) maximum

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

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

€

Please explain your answer to question 5.6 c):

5000 character(s) maximum

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

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

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

 €

Please explain your answer to question 5.7 a):

5000 character(s) maximum

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

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

 €

Please explain your answer to question 5.7 b):

5000 character(s) maximum

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

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

 €

Please explain your answer to question 5.7 c):

5000 character(s) maximum

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

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

Please select as many answers as you like

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

Please explain your answer to question 5.8:

5000 character(s) maximum

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

Multiple-Option Products

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

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

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

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

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

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

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

Please explain your answer to question 5.9:

5000 character(s) maximum

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

A tailor-made approach reflecting the investor choice of options and allocated amounts per options would effectively provide more meaningful information than is the case under the existing options. After the initial investment, any decision by the investor to change its allocation between options or choose different options should logically be made only after the provision of an updated tailor-made KID. However, this would appear hardly feasible in the case where the distributor currently offers a large number of options. It would also require all fields in the KID of the underlying options to be machine-readable in order to be processed automatically. However, should this become mandatory, it is likely that, this would result in distribution networks evolving into offering packaged deals, therefore transforming existing markets. Therefore this would require a detailed impact assessment.

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.

No additional product types should be added to the scope of the regulations until PRIIPs has proved effective in achieving the objective of increasing retail participation for the products already in scope.

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.

No additional product types should be added to the scope of the regulations until PRIIPs has proved effective in achieving the objective of increasing retail participation for the products already in scope.

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.

We have no evidence that the investor decision making process is primarily based on the KID and rather suspect that marketing materials often play a key role instead. According to the AMF savings and investment barometer, 18% of retail investors have already heard of the Key Investor Information Document. Among those who have already heard of it, only 36% have already used it (7% of respondents). In addition, we are concerned by the sheer amount of documents already provided to investors with limited indication that this serves to achieve better investment decisions. Therefore we do not see much value in making previous versions of the KID available to investors.

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

Question 5.12.1 Should the review and update occur more regularly?

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

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

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

Question 5.12.3 What should trigger the update of PRIIP KIDs?

5000 character(s) maximum

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

Any material change to the product (i.e. requiring prior notification or approval of the competent authority) should trigger an update of the KID.

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.

Regarding question 5.12.1, any material change to a product (i.e. requiring prior notification or approval of the competent authority) should trigger an update of the KID. As a minimum, a fund's KID should be updated annually.

Regarding question 5.12.2, PRIIPs which are closed to new subscriptions but remain invested by retail investors should not be required to continue updating their KID.

Regarding question 5.12.3, any material change to the product (i.e. requiring prior notification or approval of the competent authority) should trigger an update of the KID.

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.

The AMF experience, as far as investment firms are concerned, is that the MiFID 2 suitability requirements are efficient to ensure investors' needs are served and that they are not offered unsuitable products, provided that these rules are consistent between the various sectoral texts, or even made clearer for certain activities that are economically similar to the provision of investment services (unit-linked discretionary management mandates provided by insurance companies, for example).

However, the client's perception of these rules and their application must be assessed and taken into account. Feedback from AMF supervision on this last point shows the importance of advisors being able to explain the requirements and their grounds to the client, as well as having a very good knowledge of the products (advantages, disadvantages, objectives).

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

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

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

5000 character(s) maximum

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

The AMF supports targeted clarifications to the suitability requirements, to ease its implementation without lowering investors' protection. For example, the interaction between the knowledge and experience criteria could be clarified. In the AMF's view, the two criteria are not independent and the lack of one of the criteria can be compensated by meeting the other.

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.

Online platforms and brokers usually do not provide investment advice, but RTO or execution of orders services. In case of investment advice or portfolio management services provided online, ESMA suitability guidelines rightly take into account recent technological developments of the advisory market, i.e. the increasing use of automated or semi-automated systems.

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

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

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

Please explain your answer to question 6.4:

5000 character(s) maximum

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

The appropriateness test is effective to prevent client from investing in inappropriate products, as long as the client is clearly and simply informed about the assessment and its purpose, and on situations where no assessment will be done (see answer to question 6.8). As recalled in ESMA's draft guidelines on appropriateness and execution-only (ESMA35-36-2159), firms should avoid stating, or giving the impression, that the client is the one deciding on the appropriateness of the investment service or product, or is the one establishing which service or product fit his/her own knowledge and experience. As explained in question 1.1, in the AMF's view, European regulation should clearly bear in mind that the investment advice and portfolio management services are protective services adapted to clients who are not able or do not wish to take investment decisions in complete autonomy. Conversely, order services (RTO and execution of orders on behalf of third parties) are services where the client is responsible for his/her own investment decisions,

as long as he/she has received clear, visible and complete information, grouped together on the same medium, on these services, the essential elements of the contract (general conditions, withdrawal period, complaints, mediators and competent courts) and the consequences in terms of liability to be provided these services. The point is to be sure that the customer has understood the differences between services and that he/she is acting in an autonomous way. Clarity of this message must be improved.

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.

The AMF has not identified problems with the appropriateness test itself, but rather how it is applied by firms. The bad practices identified by the AMF are being addressed by ESMA's draft guidelines on appropriateness and execution-only. As examples, these are:

- To contradictorily mentions in the questionnaire that the test will help the firm to propose adequate advices to the client, which obviously causes confusion for the client about the services provided.
- If a financial instrument is categorized as complex, to ask clients to complete or update the appropriateness test only if they are flagged as inexperienced.
- To provide the client with a mention stating that non-complex products are appropriate by default.
- To ask clients about their current or previous profession, but to not use the answer for the purpose of the appropriateness assessment.
- Not to ask question to clients about their level of education.
- Not to cover the education level and profession, considering that they are "not important in the profile scoring".
- Not to use the profession information to assess the instrument/service appropriateness.

During its 2019 common supervisory action, ESMA also identified issues with warnings. These were for example:

- The use of unclear messages in the warnings that could actually encourage the client to proceed with the transaction or that was unclear about the appropriateness/inappropriateness of the product for the client (for example, referring to the fact that the product is appropriate for basic/intermediate/expert clients).
- Firm staff downplaying the importance of warning during telephone conversations with the clients.
- The warning is used to inform the client that he/she can either re-perform the questionnaire or upgrade to professional client.

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.

ESMA provides in its draft guidelines on appropriateness and execution-only some specific considerations for online services, which the AMF supports. For example, the draft guidelines indicate that, in case of online services, firms should design their questionnaires taking into account factors such as:

- Whether the questions are sufficiently clear and/or whether the questionnaire is designed to provide additional clarification or examples to clients when necessary (e.g. through the use of design features, such as tool-tips or pop-up boxes);
- Whether some human interaction/support (including remote interaction via emails or mobile phones) is available to clients when responding to the online questionnaire;
- Whether steps have been taken to address inconsistent client responses (such as incorporating in the questionnaire design features to alert clients when their responses appear internally inconsistent and suggesting they reconsider such responses; or implementing systems to automatically flag apparently inconsistent information provided by a client for review or follow-up by the firm).

On the provision of information regarding the appropriateness assessment and its purpose to clients, firms providing online services should:

- Emphasise the relevant information (e.g. through the use of design features such as pop-up boxes);
- Consider whether some information should be accompanied by interactive text (e.g. through the use of design features such as tooltips) or other means to provide additional details to clients who are seeking further information (e.g. through a F.A.Q. section).

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.

The AMF believes that it is sufficient as long as the warning is provided in a clear and efficient manner. In this respect, and as reminded by ESMA draft guidelines on appropriateness and execution only, firms should not downplay the importance of warnings and should not encourage the client to proceed with the transaction, to re-take the appropriateness assessment or to request an upgrade to professional client. On this last point, as ESMA's Q&A published 25 May 2018 on client categorisation stated, investment firms should strictly refrain from implementing any form of practice that aims at incentivising, inducing or pressuring a private individual investor to request to be treated as professional client.

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.

The "execution only regime" is linked to a greater empowerment of investors: as long as they receive clear information on the products, the service, the fact there will not be an appropriateness test for their transactions, they should be able to proceed with transactions on non-complex products, by themselves.

However, firms also need to ensure that there is a clear distinction between advised and non-advised transactions, and that, as per article 25 (4) (c) of MiFID 2, the client has been clearly informed and in a timely manner that in the provision of the service, the investment firm is not required to assess the appropriateness of the financial instrument or service provided or offered and that therefore the client does not benefit from the protection of conduct of business rules.

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:

1) Product governance requirements should be adapted for passive distribution of financial instruments, understood as simply making available such financial instruments, through the provision of investment services under appropriateness or execution-only regime and not preceded by any form of solicitation, promotion or advertising by the investment firm or any person acting on its behalf (through e.g. marketing campaigns or provision of general or personalised recommendations to clients). In such cases, the investment firm has no ties with the “manufacturer” and does not receive any remuneration to market the product. It should therefore not be required to define the products’ target market. In any case, due to the corresponding distribution regime (appropriateness or execution only regime), most of the target market criteria will not be assessed at the time of the provision of the investment service to clients. Therefore, these provisions appear to be of limited utility, while having a significant regulatory cost for firms when providing only execution services. The product governance requirements should be limited to the definition by the investment firms of their offer policy (service and channels available per categories of clients per categories of products or markets or venues). This position clearly goes in the direction of a greater empowerment of retail investors and a greater access to products.

2) The investment firm advising an issuer on a new issuance of vanilla products (e.g. shares and simple bonds) should not be treated as the manufacturer of these products since the advice provided does not focus on the characteristics of the product or its functioning but rather on the characteristics of the issuance. Practice has shown that these requirements provide no added value and do not make sense, for the secondary market transactions where all shares and bonds are fungible whatever their issuing date (who should be considered as manufacturer for a specific share where the shares issued result from many successive issuances advised by different investment firms?). Therefore, in AMF’s view, it should be clarified that investment firms advising corporate firms for primary issue of ordinary shares and bonds should not be viewed as manufacturers, at least for distribution on the secondary market.

3) Where the issuer is an investment firm, it will in any case be subject to MiFID 2 product governance requirements for manufacturers. In such case however, due to their characteristics and inherent nature, some product governance requirements should be explicitly waived for plain vanilla products:

- Since such financial instruments are considered not to embed any manufacturing costs, the requirement under article 9 (12) of MiFID 2 delegated Directive to consider the proposed charging structure should be waived ;
- The requirement under article 9 (10) of MiFID 2 delegated Directive to undertake a scenario analysis does not make sense for these products that are not structured products and do not change their structure of payment profile during their life cycle.

4) Where an investment firm enters into a bilateral transaction with a client on a financial instrument that is tailor made for this specific client, product governance requirements, that basically aim to capture mass distribution situations, do not add any protection to such client. In such cases, the investor’s protection will indeed be well insured by other MiFID rules such as rules on information to clients with regards the financial instruments and their risks, appropriateness or suitability requirements among which for the latter the requirement for investment firms under article 54 (9) of MiFID 2 Delegated Regulation, “to assess, while taking into account cost and complexity, whether equivalent [...] financial instruments can meet their client’s profile”. Therefore, product governance requirements are uselessly redundant with other protective requirements and should not apply to bilateral transactions on bespoke 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.

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

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

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

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

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

Please explain your answer to question 6.12:

5000 character(s) maximum

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

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

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

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

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

Please explain your answer to question 6.13:

5000 character(s) maximum

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

7. Reviewing the framework for investor categorisation

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

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

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

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

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

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

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

	Yes	No	Don't know - No opinion - Not applicable
Introduction of an additional client category (semi-professional) of investors	<input 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 checked="" type="radio"/>	<input 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 AMF acknowledges that the current criteria to be met by a retail client to be classified as professional client may be too restrictive. They can indeed prevent clients from being classified as professional where they did not hold a position in the finance industry per se, for example, but who have knowledge of financial markets due to a professional position requiring financial background (like CFOs) or a sufficient educational background. The criterion attached to the number of transactions performed by such client might also be viewed as insufficiently tailored for each specific asset class. Therefore, in AMF's view some of the criteria to be fulfilled to benefit from the classification as professional clients could be restated as followed:

- a) The ten transactions of significant size per quarter during the past year could be replaced by "a sufficient number of transactions of significant size on the relevant market during the past year",
- b) The value of the client's portfolio of more than €500,000 could be not limited to financial instruments only, but potentially also include any other financial assets net of debt.
- c) The criterion for assessing client competence could be extended to other sectors than the financial sector, based on an occupation in such sector that would require financial knowledge and/or experience. It could also be further considered that the knowledge would have been acquired through initial training.

Regarding the introduction of a fourth criterion, the AMF supports extending the current criterion on client position to include 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 business angel.

More generally, as MiFID 2 client classification has an impact on other pieces of regulation (such as Prospectus, AIFM, and UCITS), a deeper analysis should be conducted by ESMA or the European Commission to assess whether investments in some products might be overly restricted by the MiFID 2 client categorisation.

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.

The ten transactions of significant size per quarter during the past year could be replaced by “a sufficient number of transactions of significant size on the relevant market during the past year”.

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.

The ten transactions of significant size per quarter during the past year could be replaced by “a sufficient number of transactions of significant size on the relevant market during the past year”.

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

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

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

5000 character(s) maximum

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

The value of the client's portfolio of more than €500,000 could be not limited to financial instruments only, but potentially also include any other financial assets net of debt.

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 value of the client's portfolio of more than €500,000 could be not limited to financial instruments only, but potentially also include any other financial assets net of debt.

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.

The criterion for assessing client competence could be extended to other sectors than the financial sector, based on an occupation in such sector that would require financial knowledge and/or experience (such as a CFO in a non-financial firm). It could also be further considered that the knowledge would have been acquired through initial training.

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

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

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

5000 character(s) maximum

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

Regarding the introduction of a fourth criterion, rather than adding such an additional criterion, the AMF supports extending the current criterion on client position to include i) relevant certified education or training that allows to understand financial instruments, markets and their related risks, ii) an academic degree in the area of finance/business/economics, iii) experience as an executive or board member of a company of a significant size, iv) experience as business angel.

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.

Regarding the introduction of a fourth criterion, rather than adding such an additional criterion, the AMF supports extending the current criterion on client position to include i) relevant certified education or training that allows to understand financial instruments, markets and their related risks, ii) an academic degree in the area of finance/business/economics, iii) experience as an executive or board member of a company of a significant size, iv) experience as business angel.

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

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

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

Please explain your answer to question 7.3:

5000 character(s) maximum

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

The AMF has not identified a need to review these thresholds.

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

Please explain your answer to question 8.1:

5000 character(s) maximum

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

Regarding transparency and disclosure, the AMF supports the vast majority of recommendations made by ESMA in its technical advice on inducements of 31 March 2020, where ESMA recommends that the Commission should improve the comprehensibility and clarity of the existing inducements disclosures by:

- clarifying in the MiFID 2 Delegated Regulation that the ex-ante inducements disclosures should always be made on an ISIN-by-ISIN basis thereby showing clients where the firm is most incentivised to recommend and sell a product (i.e. showing clients with what product the firm makes the most money); and
- introducing the obligation to include, in all inducements disclosures, an explanation, in layman's terms, of the terms used to refer to inducements (for instance, third-party payments). Such explanation should be sufficiently clear and use simple terms to ensure that retail clients understand the nature and impact of inducements. ESMA recommended the following language:

"Third-party payments are payments received by [name of the firm or firms (if more than one)] for selling this product to you and is part of the costs that you incur for the service provided by [name of the firm], even though you do not pay such costs directly to [name of the firm]."

In addition, the AMF is of the view that inducement rules do not address closed architecture models where no inducements are charged but the costs for the client may still be very high. In this regard, the AMF would like to refer to ESMA Q&A published on November 6, 2020, referring to Article 9 (12) (b) of MiFID 2 Delegated act and indicating that manufacturers of financial instruments should always calculate the fair value of a product, compare it with the expected price of the product and check if the result is in the interest of the customer and consistent with the current practices for similar products available on the market. This practice would make it possible to ensure, in particular, that products sold in intra-group sales are not unduly charged in costs compared to "external" products.

However, this Q&A only applies to manufacturers subject to MiFID 2 and not to distributors. Modifications to level 1 of MiFID 2 (article 16 and article 24) should then be considered in order to integrate this Q&A into the text and extend it to distributors and (indirectly) to non-MiFID manufacturers, at least for some products like structured products.

Regarding quality enhancement, the AMF would make a suggestion aiming at making this requirement more workable and effective.

ESMA (and also the industry) has been struggling for a long time to find a smart way to apply the condition set under article 11(2)(a) of MiFID 2 delegated directive (2017/593), for the inducements perceived to be "designed to enhance the quality of the relevant service to the client" and clarified under the delegated directive as having to be "proportionate to the provision of an additional or higher level service to the relevant client".

The AMF reads this condition as being both not completely in line with the goal pursued and impossible to enforce and would suggest an alternative drafting that would impose a constraint on the level of inducements that would be both in line with the spirit of the text and enforceable.

Firstly, our reading of inducement rules is to grant, subject to restricted conditions, the possibility for a person providing a financial service to a client, to be remunerated by a third party having a direct financial interest in the distribution of a specific financial instrument through this service. Therefore, once this possibility is afforded, the logic would be for the payment to be proportionate to the quality of the service

provided which is what the client is looking for in the first place. Differently, the requirement is to be proportionate to an enhancement of the service. The difficulty with this drafting is that the more sophisticated the service provided is, the less room for improvement there will be.

Therefore, the AMF is of the view that it would be more in line with the spirit of the text to require that the remuneration should be proportionate to the quality and extent of the service provided: for instance, it seems logical that a client would pay more for an advice service on a sophisticated financial instrument than for a basic RTO service on a plain vanilla share.

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.

See answer to Question 8.5.

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.

See answer to Question 8.5.

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.

See answer to Question 8.5.

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.

See answer to Question 8.5.

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.

For online platforms, see answer to question 8.6 on PFOF.

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.

As ESMA highlighted in its technical advice on inducements (ESMA35-43-2126), some respondents to its Call for Evidence regretted the distorted competition resulting from the stricter inducement rules under MiFID 2, compared to the rules applicable to comparable investment products such as insurance products. The AMF strongly supports ESMA's view that comparable investment products should be subject to similar rules, unless there is a reason supporting divergent rules. As such, the AMF considers that MiFID-like investment products, such as certain insurance products, should be subject to similar inducement rules to the MiFID 2 ones.

Question 8.5 How should inducements be regulated?

Please select as many answers as you like

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

Please explain your answer to question 8.5:

5000 character(s) maximum

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

The AMF considers that a ban on all forms of inducements for financial instruments in scope of MiFID 2 would first of all reinforce the current inequality of treatment between the texts applicable to financial instruments (MiFID 2) and those applicable to insurance products (IDD), the applicable rules already being less restrictive for the latter (the total prohibition of inducements is not imposed but left to the discretion of the Member States, which may provide for stricter measures). In the case of France, such a gap would lead to the fear that French savings would be redirected even more towards insurance products (unit-linked life insurance policies), to the detriment of financial instruments.

In addition, a general ban on inducements would reinforce the distribution by the network banks of their own products, since in the case of a group where manufacturer and distributor are the same entity, a ban on retrocessions would not apply, as the group could use other remuneration schemes not captured by a ban.

Such a ban would also call into question the business model of the majority of Financial Investment Advisors

("FIAs") operating in France today, whose remuneration is based primarily on retrocessions of entry fees and annual management fees. It will lead to take out some of this group while they have provided substantial advice and are essential to maintain the investors' trust in financial markets and healthy competition between small (FIAs) and bigger players (banks). The FIAs' model needs to be preserved across Europe.

Last but not least, such a ban would risk creating a strong barrier to access to advice for small investors, as has been noted in the case of the United Kingdom and the Netherlands, countries that have experienced a general ban on retrocessions. The Financial Conduct Authority ("FCA") has indeed launched a review in 2019 as to the effects of the ban introduced in 2006 in the UK. In this context, the FCA indicated in July 2019 on its website that "a number of stakeholders have said that not all consumers have appropriate access to a wide range of services to help them in their financial planning, particularly those with smaller amounts of money to invest. They say that this problem has worsened in recent years and that regulatory costs have contributed to this". Similarly, in the Netherlands, an assessment was conducted in January 2018 on the ban introduced in the Netherlands in 2013. It noted that market participants reported that consumers were less using advice since the introduction of direct payments (see Parliamentary paper of January 2018).

In light of the above, and as explained in Question 8.1, rather than advocating for radical measures whose beneficial effects have not been reliably demonstrated, the AMF considers it preferable, and more reasonable, to prioritize greater transparency vis-à-vis the client as to the purpose of the retrocessions received (as stated by ESMA in its technical advice to the European commission, ESMA35-43-2126).

The AMF believes that there is a risk of undermining access to advice, particularly for people who need human contact with an adviser (senior citizens). The sale of "in-house products" by large groups, an argument sometimes put forward to call for a general ban on inducements, is not an issue to be dealt with by means of such a ban, but rather by clarifying the rules governing the products to be offered to clients (in particular when it is a question of verifying that a less costly and less complex product should not instead be offered to the client), as described in Question 8.1.

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

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

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

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

5000 character(s) maximum

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

The AMF supports strictly prohibiting investment firms from receiving any remuneration or benefit for routing client orders to a particular trading venue or execution venue.

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.

Firms should be in the capacity to demonstrate there is a genuine difference between “reasonable steps” and “sufficient steps” to obtain the best possible result for their clients in their arrangements and policies, when executing orders, the later setting a higher bar for compliance. The ESMA has set up some guidance in its Q&A of 10 October 2016 on best execution, in this respect.

Where an investment firm executes an order on behalf of a retail client, MiFID 2 requires that the best possible result is determined in terms of the total consideration, representing the price of the financial instrument and the costs relating to execution. This should not lead to a “blind trust” towards venues that charge the lowest fees. The price criterion’s appreciation should be part of a broader assessment that takes into account other criteria, leading to a real cost-benefit analysis in terms of clients’ interest and not to a mere ticking the box exercise. It could include meeting trading venues, assessing and challenging their costs grids and informing clients on the results of this assessment. A lower execution cost does not imply the firm will permanently obtain a better result than executing on other venues: on an order-by- order basis, the price improvement on the alternative venue may exceed the benefit of the low cost venue.

When performing controls on their best execution policies, firms tend to take this assessment lightly. Firms should be required to define performance indicators and base their assessment on meaningful samples, not overlooking retail clients.

Firms should be required to explain to their clients how they assess the best execution, in simple terms.

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

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

- Yes

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

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

5000 character(s) maximum

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

The AMF is not in favour of a voluntary pan-EU label for financial advisors. The main advantage of such a label would actually be common standards across the EU but labels have also disadvantages and certification of financial advisors is another way to promote common standards. Firstly, it is necessary to define the criteria to label financial advisors. Secondly, one or several bodies should award the label and be certified for it, this process need to be transparent and ensure that the independence of the label. Thirdly, there are already other labels on products (eg. upcoming EU Ecolabel) and it difficult for retail investors to know well the objective and the features of the different labels. Finally, if it is only on a voluntary basis, it does not promote a common knowledge and competencies for financial advisors.

Instead, the AMF supports the idea of a European framework for the certification of advisors, through the definition of common themes subject to testing, provided that it allows for the specificities of national regulations and of local markets to be taken into account. This framework must therefore be linked to national certification systems, which in the case of the AMF, has proved its worth. The European framework should also make it possible to recognise a form of equivalence between national certification systems, which still needs to be explored.

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.

There are sufficient regulatory categories for robo-advisors activities that correspond to the different type of robo-advisors activities that the AMF has observed. Nevertheless, the AMF has received questions from robo-advisors on the issue of moral responsibility. Robot advisors provide advice with their algorithms directly to investment services providers such as human advisors. Human advisors use the analysis from the robo advisor to advice the retail investor. This use of robo-advisors can lead to a moral responsibility issue between the robo advisor and the human advisor.

With regard to the issue of moral responsibility, a clarification of the regulatory framework would address this problem and increase investor protection.

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.

The AMF has observed an increase in the interest of younger investors with limited investment capacity who are looking for investment solutions through robo-advisors. Robo-advisors can propose reduced fees and automated process, making it possible to address a different type of retail investor.

Nevertheless, our studies show that most retail investors in France still rely on the contact with an advisor.

The AMF conducted a quantitative study on a representative sample of French retail investors in 2018 on channels used for investments.

- 48% prefer the contact with an advisor, 32% both contact with an advisor and use of internet services, 20% use of internet services.

- In the future, to invest in a new product or subscribe for a savings account, 78% prefer the contact with an advisor and only 18% a website or an app.

More recently, the AMF conducted in May 2021 a qualitative study on the readability of information messages during online subscription and investment. Most participants had already invested online. When subscribing and investing online, retail investors mentioned that they had less constraints (time saving, more fluidity) but some of them mentioned also the possibility to contact an advisor or even go to a branch if need be. People with less knowledge tend to invest with an advisor. A multi-channel approach is often effective for most retail investors.

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

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

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

5000 character(s) maximum

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

The first barrier reported by robo-advisors is the administrative burden of setting up KYC/AML procedures with retail investors. They report that many retail investors abandon their registration process because of the amount of paperwork they have to complete to finally access to the financial product. Robo-advisors would like to see a more proportional approach to client registration with progressive stages of KYC/AML process.

The second barrier concerns the products available for the robo-advisors in France. As it stands, the French robot advisors are mainly on life insurance contracts. Opening up the products range could improve the efficiency of robo-advisors and their chance to take up the retail market.

Finally, a barrier raised by French robo-advisors is the transparency between different entities such as are assets management funds. One of the competitive advantages of robo-advisors lies in the fees offered to clients for using their services. However, according to the French association representing French fintechs, France FinTech, and those of its members who are robo-advisors, retail investors are not aware of fees rates established by investment funds and other entities, as this information is complicated to find on their website or documentation. Robo-advisors would like to see increased transparency of the fees of investment companies on their websites and in their commercial proposals to market retail investors, to be able to demonstrate – as they say – that they are more competitive.

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.

See our answer to question 6.9 on product governance and question 6.8 on the execution-only regime.

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

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

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

Please explain your answer to question 9.2 a):

5000 character(s) maximum

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

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

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

Please explain your answer to question 9.2 b):

5000 character(s) maximum

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

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

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

Please explain your answer to question 9.2 c):

5000 character(s) maximum

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

This would create complexity and confusion for investors.

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.

Simple products already fit in the current rules.

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.

Product governance and product intervention rules are efficient, as far as complex products are concerned.

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.

It is very important for retail investors to have access to rapid and effective redress to keep confidence in the financial system and feel protected when they invest. It is also necessary to benefit from a complaints' management system to avoid reputational risks of providers.

Information on redress means has to be available to the investor prior to his/her investment decision, especially if it is taken electronically, without any contact with the provider.

In the context of an investment in another member state, if the investor had access to it from his/her jurisdiction, the investor should be able to make a complaint in his/her language and benefit from redress (ombudsman and courts) in the host country, i.e. the country in which the product has been sold.

In France, professionals provide the client with information on the terms of referral to the professional, and if applicable, each of the complaint processing levels put in place, in particular the contact details (address, non-surcharged telephone number, etc.) of the person(s) or the dedicated body in charge of handling complaints and the competent ombudsman. This information is provided free of charge, in clear and understandable language.

We have several consecutive systems, the complaint procedure proposed by firms, ombudsmen (Alternative Dispute Resolution) and courts, which allows remedies and a full coverage.

There are two types of ombudsmen for handling complaints in retail investment products' matter:

- The AMF's ombudsman who has a general authority on all complaints related to retail investment products, with a public service remit.

- The consumer ombudsman chosen by the professional who has signed a specific agreement with the AMF. In this category, financial firms have the choice between the Ombudsman of the French Banks Federation, or a mediator of their bank.

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.

The article 26 of MiFID 2 delegated regulation (2017/565) provides: "When handling a complaint, investment firms shall communicate with clients or potential clients clearly, in plain language that is easy to understand and shall reply to the complaint without undue delay".

It is necessary to define a reasonable delay at European level to uniform practices. In France, we consider that 2 months is a fair limit for providers to respond to clients. It should be efficient to define this delay as 2 month-period. The regulation could impose provider to acknowledge receipt for the legal response delay to begin to run.

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.

It is mandatory to inform the consumer of available complaints system and the competent ombudsman. Article 26 of MiFID 2 delegated regulation (2017/565) requires investment firms to communicate the firm's position on the complaint to clients or potential clients and inform the clients or potential clients about their options, including that they may be able to refer the complaint to an alternative dispute resolution entity

(ADR), as defined in Article 4 of Directive 2013/11/EU of the European Parliament and the Council on consumer ADR or that the client may be able to take civil action.

Information relating to redress is drowned in the general conditions of providers.

In France, when the provider refuses or rejects a complaint, the provider must give the consumer information on the competent ombudsman. More than where this information is available, MIFID 2 could be more specific on when it is given, it is important that the consumer has this information when he/she needs it.

In addition, all this information must be available on the providers' websites and any suitable medium. This information is also available in France on the AMF website.

The AMF receives numerous calls from consumers who do not know who to contact when they are being provided a service under the Freedom to Provide Services passport and are lost when they face a foreign complaints' service and ombudsman, the latter being difficult to reach and most of the time doesn't speak the consumer's own language.

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.

The right ombudsman to address depends on the area of competence, it is not always easy for consumers to find the competent one. Accessing the right ombudsman can sometimes be complex for consumers. The AMF has set up a form to filter and direct requests that do not fall within its remit.

Requests are processed within a reasonable time, although occasional overloads can slow the treatment of files.

The decisions taken by the ombudsman, whether favorable or unfavorable, are motivated and explained to professionals and consumers, which contributes to financial education.

Ombudsman is an intermediate level of appeals, so there is a higher redress, the court. This system appears effective even if it can still be improved.

In France, the firm can either propose the ombudsman service of a professional association, or designate its own ombudsman. In this later case, there are reflexions on the independence of ombudsmen. The guarantees of impartiality when the complaint is managed by the ombudsman designated by the firm itself are missing.

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.

Domestically:

Information relating to redress is drowned in the general conditions of providers. These general conditions are, most of the time, not read by consumers. This information has to be more accessible, more readable and clearer.

In a cross-border context:

Firms acting on a cross-border basis should be required to have a “complaints service” in place which offers services in the language of the targeted jurisdiction and access to an ombudsman and to courts in the host country.

A reasonable delay of the legal response time should be defined. The AMF considers a 2 month-period as an appropriate delay. Moreover, the provider should acknowledge receipt to start the legal response time.

The AMF also supports the following recommendation made by the High Level Forum on CMU: “retail packaged investment disputes are covered by the proposal for a Directive on representative actions for the protection of the collective interests of consumers (COM/2018/0184). The HLF called on co-legislators to not discriminate individual direct investments by retail investors in equity and fixed income instruments, by including them in the scope of the Directive on representative actions for the protection of the collective interests of consumers (COM/2018/0184) or (COD/2018/0089), through the inclusion of MAR, and SRD in its Annex I. In the unfortunate case that co-legislators would ultimately decide not to include direct investments of retail investors in equity and fixed income in the scope of the Directive or not to keep other retail investment provisions in the scope of the Directive, the Commission should, in the context of the future evaluation of the Directive, assess the scope of application of this Directive, including the possible need to include into its scope of application the relevant EU law in the area of retail investment.” See Final report of the HLF on CMU, A new vision for Europe’s Capital Markets, June 2020.

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.

Vulnerable people, if they are under protective measures, can have access through their legal trustees to redress.

However, consumer redress cannot be accessible to vulnerable consumers when they are in the “grey area”, i.e. not yet declared as vulnerable, and alone facing their investment decision. To manage these type of situations, providers has to exercise extra vigilance with regard this population, based on three pillars:

- The implementation of training and awareness-raising actions for advisers,
- The creation of a "vulnerability referral" role within the financial institutions,
- The strengthening of internal procedures and control mechanisms.

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.

Following the introduction of the product intervention powers on 3 January 2018, ESMA adopted product intervention measures in relation to the marketing, distribution or sale of contracts for differences and binary options to retail clients. On 1 June 2018, the first ESMA product intervention measures were published in the Official Journal of the European Union. The measure in relation to binary options started to apply on 2 July

2018 and the measures in relation to CFDs on 1 August 2018.

ESMA renewed the measures three times – in September 2018, October 2018 and December 2018. As part of its renewal decisions, ESMA undertook a review of the relevant outcomes of the application of the expiring measures. With regard to binary options, there were no new authorisations of firms offering binary options to retail clients and NCAs reported limited numbers of non-compliance in relation to the prohibition to market, distribute or sell binary options to retail clients. In general, there is no longer an authorised binary options market for retail clients in the EU. For CFDs, NCAs reported an overall decrease in the number of CFD retail client accounts, trading volume and total retail client equity when comparing the reporting period with the same period a year earlier (when the CFD measures were not applicable). The share of profitable retail client accounts remained broadly stable, and the average costs incurred by retail clients while trading CFDs were significantly lower in the periods after the introduction of the ESMA measures. Average costs in respect of active retail accounts containing CFDs on cryptocurrencies fell significantly in comparison to others, though such accounts continued to incur higher costs than accounts with no cryptocurrency exposure. Finally, NCAs reported a sustained decrease in the number of automatic close-outs, the number of times accounts went into negative equity and the size of negative equity balances. The adoption of product intervention measures in relation to CFDs and binary options has therefore been positive to reduce the significant investor detriment. ESMA has made good use of intervention powers on that example.

Having pan-European product intervention measures ensures a level playing field for both investors and market participants. Such pan-European measures remove the inconsistencies resulting from the adoption of divergent national product intervention measures, strengthen supervisory convergence in a Single Market and establish the same level of investor protection in Europe. The AMF supports the adoption of pan-European measures rather than isolated national measures. The AMF therefore supports the longer duration of the ESMA product intervention measures as resulting from the ESA Review and would even support ESMA permanent product intervention powers (see question 11.2).

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.

Convergence in the application of product intervention powers can only be insured by pan-European measures taken by the ESAs. "Translation" of these measures into national laws creates the risk of diverging approaches, and hence of regulatory arbitrage from cross-border providers. The AMF supports ESMA's technical advice on product intervention (ESMA35-43-2134), in particular on the fact that divergences in national product intervention measures are not contributing to a European level playing field. As reflected in the Annex of its advice giving an overview of adopted national product intervention measures, some of the permanent national measures diverge from the temporary ones adopted by ESMA, resulting in the implementation of inconsistent measures across the Union. For firms that are active on a cross-border basis, this may raise specific barriers. For the above reasons, as ESMA, the AMF would welcome the introduction of a legal mechanism to consolidate pan-European product intervention measures and make them permanent.

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.

The ESAs' power to adopt products/practices intervention measures are of utmost importance. As replied in Question 11.2, the adoption of product intervention measures by ESMA relates to CFD and Binary Options in 2018 have been effective in reducing harm to investors. As stated in the AMF Ombudsman's editorial (AMF Ombudsman Report 2019) "there has been a sharp decline in the number of requests received relating to unauthorised companies offering investments in Forex, the notorious currency speculation that is so dangerous for retail investors. This is clearly the result of measures taken by the European Securities Markets Authority (ESMA) to prohibit the marketing of binary options to consumers and of very strict regulation, which has in particular reduced the leverage of contracts for difference (CFDs)."

Concerning the adoption of such measures, back in 2018 (before the ESA review), ESMA powers were only temporary and any measure had to be reviewed every three month. This iterative process was burdensome and inefficient. Article 9(5) of ESMA Regulation introduced an automatic one-year prolongation after two six-month prolongations. The AMF welcomes this automatic prolongation and would recommend to empower the ESAs to adopt permanent product intervention measures.

As it stands, a demonstration is required that the ESAs' measure does not have a detrimental effect on the efficiency of financial markets or on investors that is disproportionate to the benefits of the action (article 40 (3)(a) of MiFIR). While we support this principle, it remains unclear how proportionality can be demonstrated. Clarity on which elements could be considered to demonstrate such proportionality could be introduced.

Despite these potential improvements, we are of the view that the ESAs' product/practices intervention power have been efficient in tackling consumer harms and are fit for their purposes.

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?

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	1 (most important)	2	3 (least important)
An investment that contributes positively to the environment and society	<input type="radio"/>	<input checked="" 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 checked="" type="radio"/>
Financial returns	<input checked="" 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 checked="" type="radio"/>	<input type="radio"/>	<input type="radio"/>
Measurements demonstrating negative or low sustainability impacts of investments	<input type="radio"/>	<input checked="" 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 checked="" 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 checked="" type="radio"/>
Require all financial products and instruments to inform about their sustainability ambition	<input type="radio"/>	<input type="radio"/>	<input checked="" 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 checked="" type="radio"/>
All financial products offered should have a minimum of sustainability ambition	<input type="radio"/>	<input type="radio"/>	<input checked="" type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>

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

	1 (not at all important)	2 (rather not important)	3 (neutral)	4 (somewhat important)	5 (very important)	Don't know - No opinion - Not applicable
Poor financial advice on sustainable investment opportunities	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input checked="" type="radio"/>	<input type="radio"/>
Lack of sustainability-related information in pre-contractual disclosure	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input checked="" type="radio"/>	<input type="radio"/>	<input type="radio"/>
Lack of EU label on sustainability related information	<input type="radio"/>	<input type="radio"/>	<input checked="" type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>
Lack of financial products that would meet sustainability preferences	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input checked="" 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 checked="" 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 checked="" type="radio"/>
Other	<input type="radio"/>	<input type="radio"/>	<input checked="" type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>

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

5000 character(s) maximum

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

The answers to question 12.1 and 12.2 come from a quantitative survey conducted by the AMF in June 2021 towards a representative sample of 2 000 French people aged over 18 years old.

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.

Regarding question 12.4, the AMF is of the view that this guidance is necessary. It should aim at:

- Making sure the client understands the concepts relating to sustainable investments. For example, guidance could explain how to present the taxonomy to an investor (definition, purpose, what it is, what it is not, what part of the market it represents).
- Ensuring that advisors are able to make the link between the client preferences, expressed in “normal” (day-to-day) terms and the products on the shelf that are supposed to meet these preferences. This would mean clarifying the regulatory concepts. For example, how a product takes into account the Principal Adverse Impacts (PAI) in a way that meets the clients' preferences.

This guidance should be flexible enough to provide some leeway for firms to implement sustainable measures. It would also be interesting to have a reflexion about a verification of minimum knowledge in sustainable finance based on a common framework for sales.

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.

ESG factors can impact the financial performances of companies in a longer or shorter term. The European commission "Study on Sustainability-Related Ratings, Data and Research", quoting the 2016 PRI report, indicated that "sell-side research has been integrating ESG factors through economic analysis (e.g. how ESG factors impact economic growth rates), how ESG factors impact company valuations, company exposures to ESG related themes (such as climate change or energy efficiency) and benchmarking. This research may take the form of sector reports or topic or company specific analysis". The AMF understands that non-financial criteria might in particular already be taken into consideration by a certain number of research providers operating in France. The French professional association of analysts (French society of financial analysts, "SFAF") has also initiated reflections on best practices in the inclusion of non-financial information in the production of research.

Against the background of a growing demand from investors of products taking into account ESG factors, one should also expect research providers to progressively incorporate non-financial considerations in their analysis. As such, in the long term, considering ESG should be inherent to the analysts' work (whether they are investment firms or independent). Sufficient transparency and communication will have to be ensured on the way such ESG elements are included in the methodology and how they affect the analyses. Such transparency are indeed essential for investors to properly apprehend the results of such analyses. It is also of the outmost importance to ensure that adequate training and expertise is developed in this sector to accompany such tendency. Following the publication in January 2020 of the report "Reviving research in the wake of MiFID II: Observations, issues and recommendations" by the task force mandated by the AMF, the AMF Board supported the necessity to ensure proper qualification of analysts on ESG matters.

In the shorter term, the AMF believes that the European regulation should encourage analysts (investment firms and independent) to include ESG consideration in the production of their analyses and be transparent about such considerations (what factors have been taken into consideration, with which methodology, what data was taken on board and how and what potential specific consequences it has on the analysis). However, such encouragement should not be limited to research on SMEs but extended to all the research produced.

Attention should also be given to the fact that MiFID 2 currently does not apply to all financial analysts and does not deal with the content nor the methodology of research production, but its financing (from an inducement perspective) or the organisational rules framing such production (from a conflicts of interests' perspective). This means that requiring analysts to take into account ESG in their work would be innovative, and the place of this requirement needs to be duly considered, especially because MiFID 2 regulates, from the organisation point of view, only investment firms (and not analysts who are not investment firms). The Market Abuse Regulation, on the other hand, frames more broadly any person producing investment recommendations but doesn't address methodology of investment recommendations

Such transparency could be ensured in application of a ESG data, ratings and services providers' ad hoc regulation the AMF and the AFM have jointly called for in their joint position paper (<https://www.amf-france.org/en/news-publications/news-releases/amf-news-releases/french-and-dutch-financial-market-authorities-call-european-regulation-esg-data-ratings-and-related>). This regulation should be based on a holistic

approach, covering the provision of ESG data, ESG ratings and of sustainability-related services, including ESG research. Investment firms providing investment research under MiFID should therefore also comply with this regulation but only to the extent that they do not already have equivalent requirements under MiFID 2.

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.

1) In relation to PRIIPs, we urge the Commission to take a pragmatic stance and envisage an extension of the current exemption for funds which produce a UCITS KID.

Firstly, as the ongoing retail strategy initiative aims to deliver proposals for level 1 changes to key frameworks such as PRIIPs in the very near future, it would be advisable to await such changes before applying the new framework to funds currently producing UCITS KIDs.

Secondly, if the exemption lapses before the review of PRIIPs, we run a very real risk of undermining UCITS, the flagship for EU investment products and a success for several decades, with poorer and potentially misleading information available to retail investors at the time of an EU-wide push to improve retail investors' financial independence via financial markets.

Finally, it would be advisable to take stock of the recent UK announcement of a PRIIPs suspension for funds until 2026. At the very least, this decision sends a general signal of no confidence in relation to the changes introduced by the new PRIIPs RTS. This suspension also provides an opportunity for the UK to take the necessary time to deliver on its Consumer Duty review initiative without an impending deadline, which is a better starting point for generating pragmatic and fresh ideas than that of having to urgently fix a broken process, as would be the EU's premise if PRIIPs came into force for funds next year. We are mindful that markets and investors' perceptions of the EU framework remain that of a protective and well thought-out environment. It is crucial that the EU, in the context of the flexibility displayed by the UK, endorses the role of an agile primary thought-leader capable of setting gold standards for industry practices.

2) The European regulation should require Member States to ensure that firms take into account vulnerability of their clients. The ESA should develop guidance to ensure that firms take into account the needs of vulnerable clients in their target market, that their staff have the skills and capability to address the needs of vulnerable clients they have identified and translated their understanding of the needs of vulnerable consumers into practical action. This could include:

- Implement or consolidate their initiatives in awareness raising and/or training of advisers regarding the potential vulnerabilities of the elderly, so as to assist these clients more effectively and obtain financial decisions based on informed consent;
- Enhance internal attention and support by creating a "vulnerability contact person", responsible for promoting this approach with the firm's senior management and ensuring its implementation in commercial practices and its monitoring.
- Enhancing diligence to prevent risks more effectively, by strengthening internal procedures and implementing controls to limit the risks of mis-selling, causing a prejudice to the client, and also the risks of litigation for the firm.

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

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

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

[More on the Transparency register \(http://ec.europa.eu/transparencyregister/public/homePage.do?locale=en\)](http://ec.europa.eu/transparencyregister/public/homePage.do?locale=en)

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