

Retail investor protection rules

2023/0167(COD) - 24/05/2023 - Legislative proposal

PURPOSE: to amend certain Directives as regards the Union retail investor protection rules.

PROPOSED ACT: Directive of the European Parliament and of the Council.

ROLE OF THE EUROPEAN PARLIAMENT: the European Parliament decides in accordance with the ordinary legislative procedure and on an equal footing with the Council.

BACKGROUND: investor protection rules are currently set out across sector specific legislative instruments, including the Markets in Financial Instruments Directive (MiFID II), the Insurance Distribution Directive (IDD), the Undertaking for Collective Investment in Transferable Securities (UCITS) Directive, the Alternative Investment Fund Managers Directive (AIFMD), and the taking-up and pursuit of the business of Insurance and Reinsurance Directive (Solvency II), as well as an amending Regulation, which revises the Packaged Retail and Insurance-based Investment Products (PRIIPs) Regulation. The rules can differ from one financial instrument to another and may sometimes be inconsistent, making the cumulative requirements confusing for retail investors. At the same time, digitalisation has led to changes in distribution models and to new forms of marketing for financial instruments towards retail clients.

The legal framework governing retail investor protection is extensive and largely harmonised at EU level. Notwithstanding this extensive body of legislation at EU level, the evidence gathering exercises have identified a **number of significant shortcomings**, in particular with respect to the way retail investment products are distributed and the way information is provided to retail investors.

The Commission has identified a number of problems along the retail investor's journey that hinder their ability to take full advantage of capital markets:

- retail investors have difficulties accessing relevant, comparable and easily understandable investment product information to help them make informed investment choices;
- retail investors are exposed to a growing risk of being inappropriately influenced by unrealistic marketing information through digital channels and misleading marketing practices;
- there are shortcomings in the way products are manufactured and distributed, linked to conflicts of interest that may arise as a result of the payment of inducements between product manufacturers and distributors;
- some investment products incorporate unjustifiably high levels of costs and consequently do not always offer Value for Money to the retail investor.

To address the problems on the retail investments market, further efforts are required at EU level.

On 8 October 2020, the European Parliament adopted a [resolution](#) on the future development of the capital markets union, which broadly supports measures to increase retail investor participation in capital markets.

CONTENT: therefore, the proposed Omnibus amending Directive sets out the amendments to be made to the different abovementioned Directives. Overall, it aims to update the retail investor protection rules to bring greater coherence to the legislative framework whilst reinforcing investor protection rules.

Its general objectives are to strengthen the protection framework for retail investors to empower them when taking investment decisions and to ensure their fair treatment when using investment services in order to achieve better investment performance. The retail investment strategy also aims to improve the efficiency and integration of the internal market across all retail financial services.

The specific objectives of this proposal are as follows:

- *improving information provided to investors* and their ability to take well-informed investment decisions. The proposal aims to improve the legal framework by adapting disclosures to the digital environment, making disclosures more relevant for retail investors and ensuring retail investors receive marketing communications, also through online channels, that are relevant and not misleading. Moreover, the existing **record keeping** obligation to all marketing communications which are directly or indirectly made by the investment firms, insurance undertakings and insurance intermediaries should be extended;

- *better aligning interests between intermediaries and investors*. The improvements to the framework would ensure that the advice given to retail investors is not biased by monetary or non-monetary incentives provided by product manufacturers to intermediaries, is of good quality and adapted to their needs, preferences and objectives;

- *ensuring that retail investors are offered cost-effective products*. A strengthened approach in the legislative framework based around the value offered aims to help retail investors achieve better returns and easier access to more cost-efficient retail investment products. The proposal gives a **mandate to ESMA and EIOPA** to develop, make publicly available, and regularly update cost and performance benchmarks against which the manufacturers and distributors must compare their products prior to offering them on the market.

Budgetary implications

The proposal is expected to have budgetary implications as a consequence of a number of new tasks conferred to ESMA and EIOPA.

ESMA will require additional budget for operational expenditure of EUR 1.5 million for the first three years of implementation to cover IT costs and costs related to externally contracted consumer testing of new consumer-facing disclosure tools, as well as the setting up and administering of collaboration platforms and a budget of EUR 1.26 million will be required for EIOPA.