


Procedure file

Basic information	
<p>COD - Ordinary legislative procedure (ex-codecision procedure) Directive</p> <p>2023/0167(COD)</p>	Awaiting Parliament's position in 1st reading
<p>Retail investor protection rules</p> <p>Amending Directive 2009/138 2007/0143(COD) Amending Directive 2009/65 2008/0153(COD) Amending Directive 2011/61 2009/0064(COD) Amending Directive 2014/65 2011/0298(COD) Amending Directive 2016/97 2012/0175(COD)</p> <p>Subject 2.50.03 Securities and financial markets, stock exchange, CIUTS, investments 2.50.05 Insurance, pension funds</p> <p>Legislative priorities Joint Declaration 2023-24</p>	

Key players			
European Parliament	Committee responsible	Rapporteur	Appointed
	ECON Economic and Monetary Affairs		
	Former committee responsible		
	ECON Economic and Monetary Affairs		30/05/2023
		 YON-COURTIN Stéphanie	
	Committee for opinion	Rapporteur for opinion	Appointed
Council of the European Union European Commission	BUDG Budgets		
	JURI Legal Affairs		
	Former committee for opinion		
	BUDG Budgets	The committee decided not to give an opinion.	
	JURI Legal Affairs	The committee decided not to give an opinion.	
	Commission DG Financial Stability, Financial Services and Capital Markets Union	Commissioner MCGUINNESS Mairead	

Key events			
24/05/2023	Legislative proposal published	COM(2023)0279	Summary

10/07/2023	Committee referral announced in Parliament, 1st reading		
02/04/2024	Committee report tabled for plenary, 1st reading	A9-0162/2024	Summary
10/04/2024	Committee decision to enter into interinstitutional negotiations announced in plenary (Rule 71)		
23/04/2024	Decision by Parliament, 1st reading		
23/04/2024	Committee decision to enter into interinstitutional negotiations confirmed by plenary (Rule 71 - vote)		

Technical information	
Procedure reference	2023/0167(COD)
Procedure type	COD - Ordinary legislative procedure (ex-codecision procedure)
Procedure subtype	Legislation
Legislative instrument	Directive
	Amending Directive 2009/138 2007/0143(COD) Amending Directive 2009/65 2008/0153(COD) Amending Directive 2011/61 2009/0064(COD) Amending Directive 2014/65 2011/0298(COD) Amending Directive 2016/97 2012/0175(COD)
Legal basis	Treaty on the Functioning of the EU TFEU 062; Treaty on the Functioning of the EU TFEU 053-p1
Stage reached in procedure	Awaiting Parliament's position in 1st reading
Committee dossier	ECON/10/00224

Documentation gateway					
Legislative proposal		COM(2023)0279	24/05/2023	EC	Summary
Document attached to the procedure		SEC(2023)0330	25/05/2023	EC	
Document attached to the procedure		SWD(2023)0278	25/05/2023	EC	
Document attached to the procedure		SWD(2023)0279	25/05/2023	EC	
Committee report tabled for plenary, 1st reading/single reading		A9-0162/2024	02/04/2024	EP	Summary

Additional information	
Research document	Briefing 22/04/2024

Retail investor protection rules

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.

Retail investor protection rules

The Committee on Economic and Monetary Affairs adopted the report by Stéphanie YON-COURTIN (Renew, FR) on the proposal for a directive of the European Parliament and of the Council amending Directives (EU) 2009/65/EC, 2009/138/EC, 2011/61/EU, 2014/65/EU and (EU) 2016/97 as regards the Union retail investor protection rules.

The committee responsible recommended that the European Parliament's position adopted at first reading under the ordinary legislative procedure should amend the proposal as follows:

Better frame the current advice environment

Members underlined the need to introduce rules that better frame the current advice environment by ensuring that financial intermediaries provide more transparent, understandable and tailored advice to clients and consumers. This should ensure that clients and consumers are being offered products suitable to their needs and that they better understand the advice they receive.

Best interest of customers

Member States should require that, when providing investment services or, where appropriate, ancillary services to consumers, an insurance

undertaking or an insurance intermediary acts honestly, fairly and professionally in accordance with the best interests of its consumers.

Financial advisors should base their advice on an appropriate range of financial products suited to the clients or customers needs. The range of financial products offered should take into account the business model of the firm and the investment objectives of the client or customer. The best interest of clients and customers is broader than costs. Therefore, financial advisors should, after having identified instruments suited to their clients or customers needs, recommend the most efficient product among products offering similar features to their clients and customers, taking into consideration its performance, level of risk, qualitative elements, costs and charges reported.

If advisors choose to recommend an equivalent product with higher costs to the client or customer, they should provide an objective justification for such recommendation and keep the record of that justification. Financial advisors should not place the interest of their firm ahead of the interest of their clients and customers. In the case of insurance-based investment products, advisors should also ensure that the insurance cover included in the product is consistent with the clients or customers insurance demands and needs. In case that none of the products is in the best interest of the client or customer, financial advisors should refrain from giving advice or making a recommendation.

Assessment of the effectiveness of measures

The new rules strengthen the existing requirements on disclosure of inducements to ensure that retail investors understand the general concept of inducements, the potential for conflict of interest, as well as the impact of inducements on the overall costs and expected returns.

In order to assess the effectiveness of these measures, five years after the adoption of the regulatory technical standards and after having consulted the European Securities and Markets Authority (ESMA) and European Insurance and Occupational Pensions Authority (EIOPA), the Commission should prepare a report assessing strengthened product governance requirements, the potential conflict of interests associated with inducements, the evolution of costs, the overall level of retail investment in capital markets, consumer protection, the relevance of distribution rules and the implementation of financial literacy measures. If the Commissions assessment does not show that the new provisions have led to positive change for consumers, the Commission may propose amendments to this Directive, if necessary.

In addition, the Commission should be mandated to prepare a report five years after the entry into force of this Directive, after consulting ESMA and national competent authorities, to assess whether providers of financial and non-financial market data should be included in the scope of this Directive.

Common European benchmarks

Both ESMA and EIOPA should, after consulting the national competent authorities and on the basis of industry testing, develop common European benchmarks for products manufactured and distributed in more than one Member State. The benchmarks should be used solely by national competent authorities as a supervisory tool to perform the assessment of the qualitative and quantitative features of the products and to identify potential outliers on the market. As a supervisory tool, those benchmarks should not be disclosed publicly and should take into account the qualitative and quantitative features of financial instruments and insurance-based investment products.

If the product deviates from a relevant benchmark, national competent authorities should have the power to take the necessary corrective actions, including requiring the firm to provide a justification for such deviation, requiring the firm to correct its approach to comply with the product governance requirements and, as a last resort measure, requiring that the product be removed from the market, if necessary.

Finfluencers

Members introduced the term finfluencer which means a natural or legal person carrying out a commercial influence activity by mobilising their popularity to communicate to the public, by electronic means and for any sort of remuneration, content aimed at promoting, directly or indirectly, financial products or contracts.

Investment firms, insurance undertakings and insurance intermediaries which make use of finfluencers to carry out their marketing communication should establish a written agreement with the finfluencers laying out the content of their contractual relationship, namely the scope and nature of the activities carried out. They should also provide the competent authority upon request with the identity and contact details of the finfluencers whose services they rely on, and should regularly operate controls over the activities carried out by the finfluencers to ensure the finfluencers compliance with this Directive.

Financial culture

Trust in Union financial markets is intrinsically linked to the level of participation in those markets by retail clients. Education and knowledge are tools to empower each citizen to make informed investment decisions. However, the level of financial literacy differs significantly across Member States. According to Members, the proposed Directive should lay the ground for increasing the level of financial education in each Member State. In view of the limited competences conferred upon the Union in that area, it is the responsibility of each Member State to ensure that proper adjustments are made, particularly in their education systems, to comply with this Directive.

Transparency				
ZANNI Marco	Shadow rapporteur	ECON	04/03/2024	Unipol Gruppo
SEEKATZ Ralf	Shadow rapporteur	ECON	30/01/2024	Allianz SE
SEEKATZ Ralf	Shadow rapporteur	ECON	16/01/2024	Assicurazioni Generali S.p.A
SEEKATZ Ralf	Shadow rapporteur	ECON	16/01/2024	Deutscher Unternehmenverband Vermögensberatung
ZANNI Marco	Shadow	ECON	15/01/2024	AMF Italia -

	rapporteur			Associazione Intermediari Mercati Finanziari
YON-COURTIN Stéphanie	Rapporteur	ECON	20/12/2023	BIPAR - European Federation of Insurance Intermediaries
YON-COURTIN Stéphanie	Rapporteur	ECON	20/12/2023	Planète CSCA
HEINÄLUOMA Eero	Shadow rapporteur	ECON	07/12/2023	Talous- ja sosiaalikomitea
POPTCHEVA Eva Maria	Committee chair	ECON	29/11/2023	Österreichischer Sparkassenverband
SEEKATZ Ralf	Shadow rapporteur	ECON	28/11/2023	Insurance Europe
FERBER Markus	Member	19/06/2024	Berbalk Communications	
SANT Alfred	Member	05/03/2024	Insurance Ireland	
LALUCQ Aurore	Member	19/02/2024	Euronext	
BENJUMEA BENJUMEA Isabel	Member	15/02/2024	ALLFUNDS BANK, S.A.U.	
	Member	09/02/2024	Crédit Agricole S.A.	
POLFJÄRD Jessica	Member	25/01/2024	Swedish Securities Markets Association (Swedish: Föreningen Svensk Värdepappersmarknad)	
KARAS Othmar	Member	24/01/2024	Wirtschaftskammer Österreich	
	Member	23/01/2024	Planète CSCA	
	Member	18/12/2023	EURALIA Fédération nationale des syndicats d'agents généraux d'assurance	
	Member	07/12/2023	Association française des sociétés Financières EURALIA	