

# Survey on EIOPA Consultation Paper regarding draft Advice on certain aspects relating to retail investor protection

Fields marked with \* are mandatory.

## Introduction

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On 27 July 2021, the European Commission sent to EIOPA a Call for Advice on certain aspects relating to retail investor protection.

The Call for Advice covers the following six areas:

- Addressing and enhancing investor engagement with disclosures;
- Drawing out the benefits of digital disclosures;
- Assessing the risks and opportunities presented by new digital tools and channels;
- Tackling damaging conflicts of interest in the sales process;
- Promoting an affordable and efficient sales process; and
- Assessing the impact of complexity in the retail investment product market

The Commission has requested EIOPA to deliver its Advice to the Commission services by 30 April 2022 so that the Commission can factor this into its on-going work on its Retail Investment Strategy, which aims to improve consumer outcomes and increase consumer participation in capital markets.

EIOPA welcomes comments on the Consultation Paper regarding its draft Advice on certain aspects relating to retail investor protection.

Comments are most helpful if they:

- respond to the question stated, where applicable;
- contain a clear rationale;
- and describe any alternatives EIOPA should consider.

Please send your comments to EIOPA **by 25 February 2022**, responding to the questions in the following survey.

Contributions not provided using the survey or submitted after the deadline will not be processed and therefore considered as they were not submitted.

### **Publication of responses**

Your responses will be published on the EIOPA website unless: you request to treat them confidential, or they are unlawful, or they would infringe the rights of any third party. Please, indicate clearly and prominently in your submission any part you do not wish to be publicly disclosed. EIOPA may also publish a summary of the survey input received on its website. Please note that EIOPA is subject to Regulation (EC) No 1049/2001 regarding public access to documents and EIOPA's rules on [public access to documents](#).

### **Declaration by the contributor**

By sending your contribution to EIOPA you consent to publication of all information in your contribution in whole/in part – as indicated in your responses, including to the publication of your name/the name of your organisation, and you thereby declare that nothing within your response is unlawful or would infringe the rights of any third party in a manner that would prevent the publication.

### **Data Protection**

Please note that personal contact details (such as name of individuals, email addresses and phone numbers) will not be published. EIOPA, as a European Authority, will process any personal data in line with Regulation (EU) 2018/1725. More information on how personal data are treated can be found in the privacy statement at the end of this material. [www.eiopa.europa.eu/privacy-statement\\_en](http://www.eiopa.europa.eu/privacy-statement_en)

## **Remarks on completing the survey**

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### **Choice of internet browsers**

Please use preferably Firefox or Chrome for best speed of the online survey whilst ensuring use of the latest version of the browser.

### **Saving a draft survey**

After you start filling in responses to the survey there is a facility to save your answers. HOWEVER, PLEASE NOTE THAT THE USE OF THE ONLINE SAVING FUNCTIONALITY IS AT THE USER'S OWN RISK.

As a result, it is strongly recommended to complete the online survey in one go (i.e. all at once).

Should you still proceed with saving your answers, the online tool will immediately generate and provide you with a new link from which you will be able to access your saved answers.

It is also recommended that you select the "Send this Link as Email" icon to send a copy of the weblink to your email - please take care of typing in your email address correctly. This procedure does not, however,

guarantee that your answers will be successfully saved.

### Uploading document(s)

In the last section of the survey, you can also share additional material by clicking on "Select file to upload". Several documents (e.g. Word, Excel, Pdf) can be uploaded. However, note that each document / file is limited to 1MB or less in size.

### Printing the completed survey

You will have the possibility to print a pdf version of the final responses to the survey after submitting it by clicking on "Download PDF".

You will automatically receive an email with the pdf file. Do not forget to check your junk / spam mailbox.

### Limit of characters for the answer of each question

There is a limit of 5,000 characters for the answer of each question, including spaces and line breaks. If your answer exceeds the limit, you can upload your answer as additional material (see "Uploading document(s)" mentioned above).

## Contact details

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\* Your name

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Your member state

- Austria
- Belgium
- Bulgaria
- Croatia
- Cyprus
- Czechia
- Denmark
- Estonia
- Finland
- France
- Germany
- Greece
- Hungary

- Iceland
- Ireland
- Italy
- Latvia
- Liechtenstein
- Lithuania
- Luxembourg
- Malta
- Netherlands
- Norway
- Poland
- Portugal
- Romania
- Slovak Republic
- Slovenia
- Spain
- Sweden
- Other

## Survey on Consultation Paper regarding Advice on certain aspects relating to retail investor protection

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### Do you have any general comments on the Consultation Paper?

The AAE is very pleased to have the opportunity to contribute to this consultation. As the topics related to product design and therefore complexity are the most relevant to our members' competences and activities, this is where we are focusing our responses.

## Addressing and enhancing investor engagement with disclosures and Drawing out the benefits of digital disclosures

**Q1. What do you consider currently to be the most burdensome duplicative requirements between the different legislative frameworks? Do you consider there to be any duplicative disclosures which EIOPA have identified above between different legislative regimes to be not particularly burdensome for insurance undertakings or insurance intermediaries to comply?**

**Q2. EIOPA can see some specific benefits in disapplying a number of disclosure requirements in the Solvency II Directive and the Distance Marketing of Consumer Financial Services Directive and rationalising any remaining requirements in the IDD. Do you agree with this approach?**

**Q3. Notwithstanding the proposed approach set out in Q2, do you consider that there is an element of personalization under the provisions in Solvency II Directive that would justify delivery of personalized information separately and in addition to the generalized information in the PRIIPs KID?**

**Q4. Do you agree that to address the current gap on periodic disclosures, it makes sense to require the disclosure of an “annual statement” which could include information on paid premiums, past performance, current value of the savings, as well as adjusted projections?**

**Q5. Do you agree with the proposed list of “most vital” product and intermediary information? If not, what elements do you identify as being “most vital”, that is essential information that is most critical for consumers to read?**

**Q6. Do you currently see specific issues with misleading advertisements and marketing material in relation to the sale of insurance-based investment products (IBIPs), which would merit specific regulatory treatment and if so, which aspects?**

### Assessing the risks and opportunities presented by new digital tools and channels

**Q7. Do you agree on the current level of development of the market for online platforms distributing IBIPs? If not, please could you provide examples of where you see evidence of online platforms selling IBIPs at present and how you see this impacting the customer journey and if possible, any quantitative data you can provide on this distribution channel.**

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**Q8. Do you see the potential for the growth of open architecture models for the sale of IBIPs in the future and if so, in relation to which types of products?**

**Q9. Do you share EIOPA's assessment of the types of risks that could arise in the context of the growth of more diverse distribution channels for IBIPs? Are there any risks which you see arising, but which EIOPA has not identified in this paper?**

### Tackling damaging conflicts of interest in the sales process

**Q10. Do you agree with EIOPA's analysis of differences between IDD and MiFID II? Are there any other differences not mentioned which you consider to be relevant?**

**Q11. Do you have any views on EIOPA's analysis of the structure of different distribution models for the sale of IBIPs in the EU?**

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**Q12. Has EIOPA captured, in your view, all relevant policy options? Do you agree with the different pros and cons listed for these options and the potential impacts indicated for these options? Are you in favour of any particular options or combination of options? Are there any other policy options and pros and cons to be considered in your view?**

### Promoting an affordable and efficient sales process

**Q13. Where do you see the most significant overlaps lie between the demands and need test and suitability assessment and what can be done to address these overlaps?**

**Q14. Do you see scope for streamlining the suitability assessment and in what way, could digitalisation be harnessed to make advice on IBIPs more affordable?**

**Q15. Do you see any specific risks for consumers in streamlining the advice process further?**

**Q16. What is your view on possible demand-side solutions to facilitate the provision of affordable advice on the sale of IBIPs and support wealth management, such as financial guidance and what benefits could this bring?**

## Assessing the impact of complexity in the retail investment product market

**Q17. Do you agree with EIOPA's interpretation of complexity and cost efficiency in light of the changing market environment?**

EIOPA proposes to distinguish between different sources of complexity, which we think is relevant. We also recognise that the current definitions of complexity do not work well.

However, according to the grid in the consultation document, the issue of complexity due to market or counterparty risk seems unclear to us or seems to overlap with the complexity related to the policyholder's difficulty of understanding.

Wouldn't it be more appropriate to keep only the distinction between "complexity of the underlying features

and operating of the product” and “complexity in the understanding of the product from the perspective of an average customer”? Indeed, the riskiness of the product is independent of its complexity but rather addresses issues of financial literacy and the ability to manage risky assets. The use of different labels might be considered here. In EIOPA’s analysis the term complex is sometimes used in the sense of the legal definition in regard to the PRIIP comprehension alert and sometimes in a more general everyday language sense.

With regard to cost efficiency, we do not identify a definition or framework of understanding in the document. It is therefore difficult to answer the question. In a similar way as for the concept of value for money, the concept of cost-efficiency is very attractive but raises obvious issues when it comes to achieving a clear and operating definition. For example, when putting costs in relation with the services provided: those services are of many different natures and their value for the customer depends heavily on his demands and needs as well as on his situation at the inception of the policy or later in the course of the contract (advice, asset or portfolio management, options given, insurer’s commitment for periods that may last for years...)

**Q18. Do you agree with EIOPA’s assessment of the types of products and/or products features which could be considered simpler?**

We think it is important to underline that complexity is not in itself a negative thing. In fact, it is unavoidable if a guarantee is to be integrated in the design of the product, which answers a frequent need of the customers. Guaranteed products with participation features are typically complex according to their underlying features but quite easy to understand for customers.

On the other hand, the complexity should be introduced for good reasons and be useful without unduly affecting the efficiency of the product. It is a trade off that cannot be defined in abstracto.

Similarly, MOPs should not be considered as complex products just because they involve a lot of underlying investment options. Whether there are 5 or 200 options does not change the complexity of the product structure. For example, this structure can in some markets be related to the structure of a securities account, which in itself is not complex either.

**Q19. How would you, as an external stakeholder, define simpler and cost-efficient products? Could you please provide concrete examples of products that you consider simpler and cost-efficient?**

With regards to cost efficiency, the breakdown of costs between distribution and administrative costs appears to us as a far too simplistic view. We draw attention to the following points:

- some fee structures, although very transparent and simple for the client, do not allow for a proper distinction between distribution and management fees;
- In general, value for money should be assessed on the basis of costs (paid by the client) and not expenses (incurred by the insurer), which depend on its competitiveness: in this respect, we are dubious about the notion of proportionality (which is related to the problem of concepts whose definition is very uncertain)
- the desire to break down the cost structures between the components of a product (guarantees and associated services, including advisory services) adds an additional dimension of complexity which seems to us to clearly condemn the approach to a dead end.

**Q20. Do you consider, as an external stakeholder, that other measures could be more effective in ensuring cost efficiency? Examples of such measures could include amending the wording of the POG Delegated Regulation and state more clearly that, in the product testing, manufacturers should also assess whether costs may be too high and hence not to fit for any target market**

**Q21. Do you agree with the advantages and disadvantages of the different options proposed? Are there additional aspects which should be highlighted?**

Option 1: we share the benefits put forward: it is important, in the context of an ambitious regulation such as IDD, and given the very heterogeneous degree of maturity through across Europe of the different markets at the time of its implementation, to allow time for the regulation to be fully enforced.

The disadvantages seem to us to be less relevant as the possible further regulation considered should not contribute by itself to a more harmonised implementation of the existing regulation. We should on the other hand be aware that, regarding to complexity, the most prominent legal gap lies in the definition of complexity that may be found in the legal framework – but this point depends on level 1 or 2 and cannot be addressed through a guidance.

Option 2: as regards the benefits put forward, they could be overestimated: additional guidance would not necessarily have such a distinctive positive effect as EIOPA is already in a position (and it is part of its competences) to promote the proper implementation of any regulation related to insurance.

As regards the disadvantages, the POG should naturally lead, if it is well applied, to a better cost efficiency of products. Therefore the risk of not fully addressing the request of the European Commission should be mitigated.

Please note that it seems important to us to give the local supervisory level its full place in this implementation.

Option 3: as regards the benefits put forward, the notion of proportionality is a welcome notion but we are sceptical about its ability to be implemented in a clear and objective way. Insurance products are complex legal objects that are difficult to categorise. Trying to do so can lead to increasing regulatory complexity, which is costly, with increased legal risk and no obvious benefit. We believe that it is more effective to mobilise the local level of supervision by capitalising on the good market knowledge of NCAs. NCAs can fully support a proportionate approach within the current framework.

To this regards we share the disadvantages identified in the grid.

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The evidence for the responses should be provided in the textboxes below the respective questions. However, if you have evidence in a format other than text (e.g. Excel file), please upload the file here.

The maximum file size is 1 MB. If the file size exceeds 1 MB, please send it to [RetInvStrat@eiopa.europa.eu](mailto:RetInvStrat@eiopa.europa.eu)

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## Contact

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