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Targeted consultation on options to enhance the suitability and appropriateness assessments

Fields marked with * are mandatory.

Introduction

Following the 2020 capital markets union (CMU) action plan, the Commission is preparing a retail investment strategy, which aims to take a holistic view of investor protection rules. One of the key objectives of the CMU is to make the EU an even safer place for individuals to save and invest long-term and to increase participation of retail investors in capital markets. To this end, the Commission is looking at possible ways to increase the level of trust that retail investors have in capital markets.

Investors should be empowered and better supported to be able to identify investments that take into account their needs, objectives and constraints. Digital innovation is expected to enable new and more efficient means for investors to understand the markets and invest in an informed manner.

In the answers received to the 2021 public consultation on the Commission's retail investment strategy for Europe, many stakeholders, on the industry and consumers side, called to simplify, improve, automate and standardise the way investors' profiles are currently assessed. Some have also expressed support for more focus on the overall investor portfolio composition rather than on individual products. Respondents also highlighted the need to adjust the different investor assessments to make them better adapted to the online environment, as well as the importance of improving data quality of the suitability and appropriateness assessments. Some also recommended anticipating the evolution of robot-assisted advice or fully automated advice. Finally, some also requested more independence in the suitability assessment process.

Taking stock of these results, the Commission's Services are currently exploring different ways to improve the suitability and appropriateness regimes to address the above-mentioned issues. The Commission' services are assessing, *inter alia*, the idea of whether and how all retail investors, and not only wealth management clients, might benefit from a new suitability assessment that could provide them with more support along their investment journey to better achieve their investment objectives and to enhance their participation in the capital markets.

By means of this targeted consultation, the Commission Services intend to complement the 2021 public consultation exploring the feasibility of a new retail investor-centric assessment to improve the current suitability and appropriateness tests. Not only might such an approach modify the current MIFID II/IDD suitability and appropriateness tests with the view to no longer differentiate among the various investment services offered to retail investors, but it might rather replace the current "per product" approach with a new element, a personalised asset allocation strategy.

The new retail client suitability rules, together with the personalised asset allocation strategy, would represent a personal investment plan intended to help retail investors achieve their defined investment objectives. Its main goal would be to provide retail investors with the best possible expected returns, taking into account their personal circumstances and risk tolerance. While the personalised asset allocation strategy would provide concrete guidance on optimal investment allocations, the investor would remain free to choose the products it wants to invest in.

The personalised asset allocation strategy could achieve this objective by setting out an investment plan that relied on an optimal diversification of various asset classes considered fit for retail investors. This could include a defined (in % terms for instance) exposure to any financial instruments and products distributed to retail investors, including but not limited to, shares, bonds, funds, structured products (including insurance based investment products). The personalised asset allocation strategy could identify, on an overall portfolio basis, the appropriate risk-return for each individual versus profile with a view to achieving the investor's investment goals. However, retail investors should ultimately remain free to take autonomous investment decisions, even where they do not align with the allocation strategy.

The retail client assessment, together with the personalised asset allocation strategy, could be provided and recorded in a structured and machine-readable format for future reference by the retail investor, financial intermediaries (with clients' consent) and competent authorities. Introducing this new approach might increase the level of intelligibility and comparability of investments with the purpose of limiting risks of mis-selling or ill-advised investments.

A key element of this new tool could be the transferability (or portability) of the client assessment (enhanced with a personalised asset allocation strategy) with any financial intermediary the client chooses, including on-line brokers and platforms which would allow investors to easily switch between or using multiple brokers/financial intermediaries. The question of the transferability of the client assessment will be specifically consulted in the context of the Commission's Open Finance framework.

Subject to the portability of a personalised asset allocation, this consultation aims to assess to what extent any subsequent intermediaries should be allowed to depart from the asset allocation and under what conditions (e.g. where there are objective reasons to justify a change, including in the case of a material change in personal circumstances of the retail investor).

Responding to this consultation and follow up

In line with the Commission's stated objective of "an economy that works for people", this targeted consultation aims to gather stakeholders' views on a possible enhancement of the current suitability and appropriateness regimes. This consultation does not prejudge any outcome nor prevent the Commission from considering alternative options.

The consultation covers the following points

A. an enhanced client assessment regime – General

B. a personalised asset allocation strategy

Responses to open questions are limited to 5000 characters (including spaces and line breaks, i.e. stricter than the MS Word characters counting method), but you can also complement your answers by uploading one or several additional document(s) in the last section of the questionnaire called "Additional information".

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-suitability-assessments@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

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*Language of my contribution

- ( ) Bulgarian
- ( ) Croatian
- ( ) Czech
- ( ) Danish
- ( ) Dutch
- (x) English
- ( ) Estonian
- ( ) Finnish
- ( ) French
- ( ) German
- ( ) Greek
- ( ) Hungarian
- ( ) Irish
- ( ) Italian
- ( ) Latvian
- ( ) Lithuanian
- ( ) Maltese
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- ( ) Romanian
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- ( ) Swedish

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- (•) Business association
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- ( ) Consumer organisation
- ( ) EU citizen
- ( ) Environmental organisation
- ( ) Non-EU citizen
- ( ) Non-governmental organisation (NGO)
- ( ) Public authority
- ( ) Trade union
- ( ) Other

*First name

Caroline

*Surname

Berard-Gourisse

*Email (this won't be published)

berard-gourisse@derivateverband.de

*Organisation name

255 character(s) maximum

Deutscher Derivate Verband (DDV)

*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.

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* Country of origin

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

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Benin
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Bolivia
Bonaire Saint Eustatius and Saba
Bosnia and Herzegovina
Botswana
Bouvet Island
Brazil
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Brunei
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Cambodia
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Guam
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Guinea
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Hungary
Iceland
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Trinidad and Tobago
Tunisia
Turkey
Turkmenistan
Turks and Caicos Islands
Tuvalu
Uganda

- 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
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- Saint Barthélemy
- Saint Helena Ascension and Tristan da Cunha
- Saint Kitts and Nevis
- Saint Lucia
- 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

*Field of activity or sector (if applicable)

- [ ] Insurance
- [ ] Investment services
- [ ] New Technologies
- [ ] Pension provision
- [x] 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 targeted 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') is 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

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- [x] I agree with the personal data protection provisions

A. An enhanced client assessment regime – General

The new regime would be built around two parts: a first part focused on assessing, via a unique standardised questionnaire, the retail investor's investment objectives, risk tolerance and personal constraints and a second part dedicated to establishing a basic but personalised asset allocation strategy for the retail investor's investment portfolio.

Question 1. Do you consider that a unique and standardised retail investors' assessment regime, as described above, applicable to all investment services and enhanced with the provision of a personal asset allocation strategy, could address the weaknesses of the current suitability and appropriateness regimes?

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

Please provide a detailed answer to question 1:

5000 character(s) maximum

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

First and foremost, the DDV would like to stress that it fully supports the objectives of attracting retail investors to capital markets and retaining them in these markets. For this purpose, investor satisfaction and the quality of the investment environment are indeed essential. In this spirit, the DDV appreciates the endeavours of the European Commission (EC) to reshape the regulatory framework around a more "customer-centric" approach, which we promoted in our response to the EC consultation on the Retail Investment Strategy (RIS) in the context of complexity.
However, the DDV is of the opinion that there is no evidence that the current approach is so deficient that it needs to be fully rethought. We think that the current system has overall proven to be adequate, although adaptations may be needed in detail. In particular, the introduction of the product governance framework with MiFID II has led to improved and strengthened investor protection. From a systemic perspective, it would be useful to check if the product governance framework could be more closely linked to suitability and appropriateness.
In addition, we believe that the distinction between suitability and appropriateness makes sense, and, in particular, that their respective requirements are not transferable on a one-to-one basis, as expressed in our response to the ESMA consultation on "Guidelines on certain aspects of the MiFID II appropriateness and execution-only requirements". Furthermore, the new setting would lead to the disappearance of the non-advised business. We would not regard the latter as a positive development, as it would contradict the objective of empowering investors. Current and future sophisticated/independent investors are indeed a sign of mature financial markets where investor protection is sufficiently developed to allow investors to make their own decisions in a trustworthy environment.
It should also be noted that the suitability assessment is currently being reviewed in order to implement the new legal requirements that result from the implementation of sustainability preferences in the context of the MiFID II framework. A full reshuffle of the client assessment framework would necessitate further technical development, which may be demanding for the financial intermediaries, who aspire to regulatory certainty and stability.
As far as the appropriateness test is concerned, it is regarded in Germany as an efficient protection mechanism, which is why most financial intermediaries perform it for every kind of financial product. This mechanism functions to the satisfaction of investors. The test of knowledge and experience ensures an appropriate level of investor protection while allowing investors to easily buy and sell financial instruments – and at low costs. If the regulator would take the approach of making the suitability test closer to the appropriateness test, the following should be reflected at the very least: i) the financial intermediarys' liability which should receive reassurance from this perspective, in particular, an alleviation of the obligation that exists in suitability to make sure that the information is reliable and consistent without unduly relying on

clients´ self-assessment; and ii) in the case of warnings (which should not be issued too frequently in order to avoid them becoming less efficient), investors should always remain free to choose the product they want to invest in.
Thus the current regime is not seen as presenting weaknesses that would outweigh the practical difficulties of a unique and standardised retail investors' assessment regime.
In addition, it should be noted for the non-advised securities business that a significant proportion of German securities investors want to invest purely without advice. In recent years, many new securities investors have entered the market. With a few exceptions, growth has taken place in the market for non-advised online brokerage.
The new assessment regime and the asset allocation strategy-based approach counteract the basic approach of non-advised securities transactions. Target conditions are assumed against which clients´ allocations are checked. In our opinion, this approach does not correspond to the wishes of broad investor circles.
Many self-decision-makers will resist the intended interference in their investment autonomy - even if they can still have securities orders executed. Repeated indications that securities orders initiated by the client do not fit the prescribed target allocation can be perceived by self-decision-makers as disturbing and an underestimation of their know-how. Corresponding practical experience exists in this regard. Furthermore, investors may be so unsettled by corresponding instructions from the institution (especially in the digital environments of online brokerage) that investment decisions are postponed or no capital market investments are made. Numerous self-deciders may leave the market.

Question 2. Do you think a new retail client assessment (enhanced with a personalised asset allocation strategy) and its transferability could bring benefits and opportunities to retail investors and financial intermediaries?

- ○ Yes, it could bring them benefits and opportunities
- ● No, it would not bring them specific benefit
- ○ Don't know / no opinion / not applicable

Please explain your answers to question 2:

5000 character(s) maximum

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

Conceptually, this new approach may seem positive, as the idea of an asset allocation strategy would contribute to solving the issue of the lack of investment diversification. Indeed, academic research (please refer to T.M. Døskeland and H.K. Hvide, Do individual investors have asymmetric information based on work experience?, The Journal of Finance, 2011, 66(3), pp 1011-1041) stresses the tendency of retail investors to invest, for instance, in the area where they work (which they know better), running counter to the fundamental principle of diversifying risks. Therefore, a portfolio approach makes overall sense in terms of asset allocation, although it is disputable that the portfolio breakdown should be made per asset class; we are indeed of the opinion that a differentiation for instance per sector or region would be more meaningful. Overall we have doubts that the proposals put forward could bring benefits to retail investors.
First of all, as rightly underlined by the EC, investors should be empowered as they are able to make their own decisions and should not be constrained by a standardised portfolio that would not be tailored to their means. Making portfolios uniform (which is tempting, as standardisation might appear more secure in order to comply with regulatory requirements) would not serve the purpose of making sure that investments are fit for the objectives, expectations, and risk sensitivity of investors.
The contemplated standardisation would extend to several layers, namely in the form of the questionnaire presented by the distributor to the client, then to the suitability assessment and finally to the portfolio strategy itself. This would imply a far reaching uniformisation of the process which would limit the freedom of the financial intermediaries, thus the added-value of their “savoir-faire”. It would also, at all three mentioned levels, require lengthy and complex templates to cover all relevant circumstances in the whole of the EU, which could make the practical application of this approach very cumbersome and problematic. And even with lengthy templates, there would still be a risk that certain scenarios are not adequately covered, which is likely to lead to practical results which are not in line with the interests of investors. At the level of the proposed standardised asset allocation strategy, this would also require a common methodology, which would replace the current flexibility for distributors to find the best asset determination strategy in the interests of investors with a single officially prescribed approach.
It is also questionable whether retail clients would be willing to disclose their full portfolio to one financial intermediary. As far as we can observe from practice, this is not part of current investor culture. Therefore, it looks like this assumption would only work in the case of clients who keep all their financial instruments with one firm, which would drastically limit the interest in such a mechanism. In case of clients with assets across multiple financial intermediaries, the client would be the only one who would have the full overview. In addition, if there were only one single portable client profile for all intermediaries, we are unsure as to how clients could allocate their assets to different accounts or intermediaries.
In its statements and responses, the DDV has consistently reiterated that investors’ freedom of choice is crucial. Most of them have a main “home” financial intermediary, and then trade different products with different brokers. It is important that this flexibility should be retained, which also contributes to lively competition amongst market participants.
Coming back to the portfolio approach, there is no guarantee that the recommendations made through it will be followed by retail investors. Academic research shows that investors only marginally improved along the risk and return dimensions because they did not follow advice (please refer to U. Bhattacharya, A. Hackethal, S. Kaesler, B. Loos and S. Meyer, Is unbiased financial advice to retail investors sufficient? Answers from a large field study, The Review of Financial Studies, 2012, 25(4), pp 975-1032). Based on observations made in behavioural economics, it appears that people (not only in the financial area) learn from experience, particularly when they face a negative situation.
[Please refer to our response to Q18 for additional elements.]

Question 3. Should retail investors be able to transfer the results of their assessment together with their personalised asset allocation strategy to brokers/financial intermediaries of their choosing in order to facilitate switching between or using multiple brokers/financial intermediaries and generally enhance the investor experience?

- Yes
- No (selected)
- Don’t know / no opinion / not applicable

Please explain your answer to question 3:

5000 character(s) maximum

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

The transferability of the PAAS would trigger questions of compensation for the firm that performed it, as well as risks of converging to a very low common denominator, as described above.
It is of utmost importance that the transferability of the client assessment is examined in more depth in the context of the EC Open Finance framework, due to its potential impact on investor data protection and, from a market perspective, on the equilibrium between markets participants.
Furthermore, we see the problem that the personal asset allocation strategy created with one provider cannot be implemented with another provider as the product universes may differ. A personal asset allocation strategy that includes these products could therefore not be implemented with these providers.

Question 4. Would you see any drawbacks that could emerge from the creation and use of such a new suitability assessment applicable to all investment services (including its sharing/portability if any) for retail investors and financial intermediaries?

- Yes (selected)
- No
- Don’t know / no opinion / not applicable

Please explain your answer to question 4:

5000 character(s) maximum

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

The DDV sees drawbacks of different nature in this proposal.
As far as investors are concerned, the risk is high that those who do not opt for financial advice would be deprived of the protection that currently exists in the form of the appropriateness test. This would be a pity, as this test has proved to be efficient and welcome in Germany, where it is systematically performed for all financial instruments. A recent study has also shown that investors hold financial instruments appropriate for their knowledge and risk sensitivity (for leveraged products: Steffen Meyer, Kim Bövers and Lutz Johanning, Leveraged structured financial products: Trading motives and performance, December 2019).
Regarding the market participants, they would all be affected from different perspectives, ranging from the level playing field between market participants to the development of new methodologies.
Over the years, financial intermediaries have developed different ways of assessing investors´ situations, and have adapted them to their clients. It is questionable whether the assessment can be standardised in a way that would adequately address the different situations. In the end, this could lead to a situation where the “standardised assessment” would have to be accompanied by an additional assessment by the banks, which would ultimately result in more bureaucracy.
In its role as a representative of issuers of structured securities, the DDV would like to stress in particular the risks of narrowing down the range of products offered by distributors and the difficulty of sustaining a fair level playing field. Indeed, it is likely that the new approach would lead to distributors putting in place only two options (under the assumption that appropriateness would disappear): i) a new kind of suitability for all kinds of investment services; and ii) execution-only, for example, for plain vanilla bonds and shares, and UCITS-funds (reputed to be less complex, which is not necessarily the case depending of their features) - the latter may thus benefit from a lighter regime. This would mean that investors who do not want to make use of the new suitability regime - we assume that this would correspond to a great number of them - would be driven into “execution-only” without any investor protection. We regard this as highly dangerous, and would instead recommend extending the appropriateness regime to all financial instruments so that a sufficient level of investor protection is maintained. This would also be in line with the willingness to move away from a “product approach”. In addition, this approach would also ensure a level playing field between all products and avoid competitive disadvantages.
Furthermore, it is likely that a wide range of technical support would be expected from issuers to distributors in the form of more granular data delivery, oriented towards standardised client assessments.
From the perspective of online brokers and distributors, it goes without saying that a reshuffle of client assessments would necessitate costly technical development. In this context, this may lead to the development of methodologies that are not adapted to all financial products as experienced in the context of the PRIIPs dossier.
In terms of the profitability of the advised business, it would also be likely that the possibility to seek advice without trading, and then trade in execution-only in order to benefit from reduced costs, may be amplified, with the associated risks for relatively inexperienced retail investors.
If portability were ultimately retained, it would be extremely challenging to set up common parameters, particularly from a cross-border perspective. One obvious illustration would be the language, which is not identical across Member States. Further to these technical difficulties, this proposal may give rise to alleged faults in investment advice, due to the differences in the appreciation that diverse financial intermediaries may have. It would indeed be dangerous for a market intermediary to make a recommendation based on a client assessment and to have a PAAS carried out by a third party. It would be of the utmost importance to make a thorough assessment of this portability/transferability in the context of the EC Open Finance framework.
The creation of a personal asset allocation strategy requires a much deeper and more comprehensive understanding of clients´ personal circumstances. We see this as another barrier to entry for clients, which would be a clear disadvantage of this model. Especially in the case of non-advised business, another hurdle is created for clients, which could deter new clients from entering into securities investment. Existing clients of the non-advised securities business could be unsettled by a PAAS as soon as it deviates from their previously satisfactory portfolio. This may result in market exit or a cost-intensive and complex restructuring of the existing portfolio.

Question 5. Who should prepare the clients' assessment and their asset allocation strategy?

- (selected) Any financial intermediary selected by the retail investor
- An independent function within the financial intermediary selected by the retail investor
- An independent financial intermediary selected by the retail investor
- Other (e.g. public entity)

Please explain your answer to question 5:

5000 character(s) maximum

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

Irrespective of our reservations, we believe that financial intermediaries, selected by the investor based on the attractiveness of their services, are equipped to prepare the clients' assessment and the associated personalised asset allocation strategy (PAAS).

Question 6. What should be the key components of a standardised personal investment plan?

Please select as many answers as you like

- [x] A description of the investor
- [ ] A description of **duties and responsibilities of the investment adviser** drawing up the personal investment plan, custody arrangements and the duties of the client to signal changes in her personal circumstances
- [ ] **Procedures and reviews** that are necessary to keep the IPS topical and up-to-date
- [x] **Investment objectives**
- [ ] **Investment constraints**
- [ ] **Technical guidelines** specifying technical aspects on how the investment should be carried out, such as permissible use of leverage or derivatives; exclusion of specific types of assets from investment, if any
- [x] **ESG factors**, such as specific types of assets to be excluded from investments

- [ ] **Evaluation and review**
- [ ] Rules on identifying **strategic asset allocation** – including the baseline allocation of portfolio assets to asset classes
- [ ] **Rebalancing** – policies on rebalancing asset class weights

Please explain your answers to question 6:

5000 character(s) maximum

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

Irrespective of our reservations, the key components of a standardised personal investment plan should be based on the suitability test, namely the clients' preferences, their knowledge and experience, and their financial circumstances, as well as the upcoming ESG preferences. In addition, it is of utmost importance that the financial intermediaries remain free to consider further aspects when developing investor profiles. This matters in order to make thrive a lively competition through the differentiation of services, as well as to foster innovation.

Question 7. What are the main investment objectives and constraints that should be addressed in a personal investment plan?

Please select as many answers as you like

- [ ] **Return objectives**: Long-term investment return per year, in nominal terms, net of fees
- [ ] **Constraints**: Liquidity – expected investor outlays, etc.
- [ ] Time horizon
- [ ] Tax situation
- [ ] Legal and Regulatory factors, if any
- [ ] Unique investor circumstances, e.g., ethical or environmental preferences

Please explain your answers to question 7:

5000 character(s) maximum

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

Question 8. Storage and accessibility of the new suitability assessment, including the asset allocation strategy.

Do you agree with the following statement?

All data in the suitability assessment and the personalised asset allocation strategy (the personal investment plan) should be stored electronically and, subject to the

client’s consent, the investment plan personal should be accessible to all financial intermediaries that the client employs (“open finance”).

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

Please explain your answer to question 8:

5000 character(s) maximum

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

Question 9. How often should the client’s assessment and asset allocation strategy be updated?

A personal investment plan should be reviewed regularly in order to ensure that it remains consistent with the client’s investment objectives and constraints. A personal investment plan should also be reviewed as soon as a financial intermediary becomes aware of a material change in the client’s circumstances. A client may request an update of her personal investment plan when her objectives, time horizon, personal circumstances of liquidity needs change.

Question 9.1 When the investor is NOT under advice:

Please select as many answers as you like

- a. once per year
- b. upon significant changes in the retail investor's personal circumstances or objectives, communicated by the investor to its financial intermediary

- [ ] c. upon suggestion of the financial intermediary selected by the investor, subject to providing the investor with any necessary written justification evidencing the need for an update, and subject to the investor's agreement + duly stored
- [ ] d. other

Please explain your answers to question 9.1:

5000 character(s) maximum

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

If an investor does not make use of advised business and acts purely as a self decision-maker, a client assessment does not have any raison d'être. It would be burdensome and would contradict the objective of empowering investors. Therefore, neither a client assessment nor a periodic review should be foreseen in the non-advised business.

Question 9.2 When the investor is under advice/portfolio management:

Please select as many answers as you like

- [ ] a. once per year
- [ ] b. upon significant changes in the retail investor's personal circumstances or objectives, communicated by the investor to its financial intermediary
- [ ] c. at the initiative of the financial intermediary providing the advice and subject to written justifications evidencing the improvement, communicated to the investor and duly stored
- [x] d. other

Please specify to what other update frequency you refer in your answer to question 9.2:

5000 character(s) maximum

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

Please explain your answers to question 9.2:

5000 character(s) maximum

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

A review must take place on a case-by-case basis before each new consultation. Thus, there are no advantages for the customer compared to the previous suitability and appropriateness tests. On the contrary, in the previous procedure, the client´s interest and investment objectives are based on the proposals in a much more detailed way, and current market situations can also be incorporated into the allocation much better and more purposefully in terms of suitability.

Question 10. Please provide us with an estimate of the necessary costs to set-up and update this possible new client assessment (including the personalised asset allocation strategy) in a structured and machine-readable format as well as for its storage in a way accessible for future reference by the retail investor and competent authorities:

	Estimate (in €)
One off costs	
Ongoing costs	

Please explain your answer to question 10 and provide a breakdown of the most important cost components:

5000 character(s) maximum

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

Question 11. Please provide us with a cost comparison between the costs associated to this possible new client assessment regime (including the personalised asset allocation strategy) in and your current costs associated to compliance with the current suitability and appropriateness regimes?

	Estimate (in €)
Your current costs associated to compliance with the current suitability and appropriateness regimes	
Estimate costs associated to compliance with the possible new suitability assessment regime (including the personalised asset allocation strategy)	

Please explain your answer to question 11:

5000 character(s) maximum

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

Question 12. Do you consider that the new client assessment regime would allow material cost savings for financial intermediaries taking into account the standardised and single nature of the possible assessment regime, once the initial sunk costs are absorbed?

- ○ Yes
- ● No
- ○ Don’t know / no opinion / not applicable

Please explain your answer to question 12:

5000 character(s) maximum

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

We do not anticipate that this approach will lead to material cost savings after the initial sunk costs are absorbed because the initial client assessment, accompanied with the PAAS, would only be a basis for the advice given by the following or complementary financial intermediary. The preliminary investor data collected by another intermediary at an earlier point in time should be complemented for proper investment advice.

Only the advisory business was taken into account. The non-advisory business and in particular online brokerage were not included.

Especially in the environment of providers of online brokerage services, it cannot be assumed that these providers currently have the capabilities to implement the client assessment regime outlined. In particular, human resources would have to be massively built up and research services would have to be purchased. Accordingly, a serious deterioration of the cost situation can be assumed, which makes it inevitable to pass on the costs to the end customer. At the same time, the higher costs raise the threshold for entry into the securities business for the typical retail investor in online brokerage, as this is a member of an extremely price-sensitive clientele.

B. A personalised asset allocation strategy

A personalised asset allocation strategy would be the main output of the new client-centric assessment carried out by a financial intermediary. It would represent a basic investment framework for achieving the retail investor's investment objectives and aim to provide the investor with maximum returns in view of its personal circumstances, while exposing the investor to an optimal amount of risk. This would be achieved by setting out a unique plan for exposure (in % terms for instance) to an optimal diversification of broad asset classes (e.g. fixed income, equity, commodities, etc.) and set the right risk-return profile for the retail investor's investment goals.

The rules on asset class categorisation could feature a varying level of details and granularity. For example, the legislation could establish very general asset classes across which diversification should be ensured (e.g. equity, bonds, commodities, real estate, private equity, hedge funds) or it could foresee or allow for a creation of more detailed 'sub-asset classes' (government bonds vs. corporate bonds, high yield vs. investment grade bonds, large cap vs. small cap shares, etc.).

This personalised asset allocation strategy could then be made portable and transferable across financial intermediaries that the retail investor chooses to interact with. It should then be determined whether and to what extent financial intermediaries should be allowed to depart from this personalised asset allocation strategy and under what conditions.

Question 13. Should the rules on personalised asset allocation strategy foresee standardised investor profiles based on retail investors' personal constraints, risk/return appetite and objectives?

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

Please provide a detailed answer to question 13:

5000 character(s) maximum

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

The PAAS should not be designed based on uniform investor profiles.
A single prescribed questionnaire, based on a prescribed harmonised methodology, would lead to a one-size-fits-all approach. This would not be beneficial for investors, as it would decrease the quality of the advice of financial intermediaries, which are endeavouring to deliver high standards of financial advice.
There should be room for distributors to use their own approaches in the best interest of investors, as the design of their methodologies is precisely what gives their intervention added value.
Standardisation would also be counterproductive from a competition perspective in order to keep the best approach alive.
It may also be anticipated that this would encourage the development of automated advice on low cost products, which would lead to a levelling down of the offered services.
In addition, a standardised portfolio would entail concentration risks and exposure to shocks, which may be extremely severe for whole groups of people who may have invested their money, for example, in retirement planning.
A reasonable allocation strategy should be based on unique investor profiles, whose granularity depends, for instance, on the:
- amount of money (e.g., if 10 000 euros were invested, three or four asset classes may be offered, while if one million euros were invested, there would be a greater choice of asset classes);
- base currency (e.g., a Polish government bond would not be a reasonable asset class for a standard of asset allocation across the EU).
Such granularity and criteria would also depend on the characteristics of the markets, and could not be determined through standards applicable in the same way across the EU.

Question 14. Which elements should form the basis for distinguishing between asset classes within the asset allocation strategy?

Please select as many answers as you like

- [x] Risk
- [x] Return
- [ ] Paired correlation with other asset classes
- [ ] Additional criteria

Please explain your answer to question 14 and provide details on the additional criteria if any:

5000 character(s) maximum
including spaces and line breaks, i.e. stricter than the MS Word characters counting method.

If the portfolio approach were pursued, risk and return would be appropriate elements to distinguish asset classes.
However, practical difficulties may arise in differentiating between relevant asset classes. In particular, equity and fixed-income are relevant asset classes, whereas funds and structured securities for instance are not, as they should be allocated per these asset classes depending on the way they are designed/structured.

Question 15. Exposure to assets, as set out in the asset allocation strategy, could be achieved either by investing directly in securities (e.g. shares, bonds), or via investment in potentially complex financial products (e.g. funds, structured products, insurance-based investment products) or a combination thereof.

How should a financial intermediary assess best value-for-money when considering asset classes or sub-asset classes offering the optimal exposure for the retail investor?

5000 character(s) maximum

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

A sufficiently broad proposal of investment in each asset class should be offered by the financial intermediary. The further analysis of costs could be based on the methodology of the product governance charging structure (Article 9(12) of Commission Delegated Directive (EU) 2017/593). For this purpose, the PRIIPs impact on return for the recommended holding period (i.e., on an annualised basis in order to ensure comparability between products of different tenors) would be instrumental.

We would also like to point out that in non-advised business there is a risk that the specific characteristics of financial instruments (such as the inherent risk) may take a back seat to the allocation to an asset class. The inherent risk of different financial instruments within an asset class sometimes differs enormously. We expect that these product-specific risks are often underestimated by self-deciders due to the asset class-induced suggestion of interchangeability. We therefore see the danger of increased portfolio risks due to arbitrary product selections on the part of the client within the framework of the personal target allocation. Furthermore, the handling of multi-asset class products - such as mixed funds - or derivative instruments raises questions of allocation. Who decides to which asset class and with which share these are allocated? This must be clarified; if necessary, uniform classifications and corresponding databases must be created. The question is then again about liability. Is it permissible to rely on the data of a data provider or do they have to be verified by the institution?

In addition, potential problems with the adequate implementation of asset allocation strategies for savings plan clients should also be considered at this point. Especially in recent years, the popularity of securities savings plans (funds, ETFs, shares) has strongly increased and has introduced many retail investors to the topic of securities investment in the first place. Deposits within the framework of savings plans constantly change the actual portfolio allocation. Constant and thus cost-intensive re-balancing measures would therefore have to be carried out. The frequent re-balancing also massively increases the necessary involvement of the investor in the non-advised business. The investors' attention may be focused too much on their investments. There is a danger here of "too much trading", which is detrimental to returns and costly. The examples of multi-asset class products, derivatives and securities savings plans show that the introduction of the new regime is associated with a serious increase in complexity. This complexity leads to cost and price increases on the provider side and to increased uncertainty on the investor side, which discourages first-time investors or encourages existing investors to leave the market.

Question 16. The rules on the asset allocation strategy should allow for the establishment of asset classes that are fit to achieve the investment objectives of retail investors.

How should those rules take into account situations where the investment intermediary wishes to offer products that do not fit into one of the common asset categories?

- (selected) Where the intermediary proves that the risk, return and correlation properties of the product are equivalent to those attributed to one of the established asset classes, he/she can consider that instrument as belonging to that asset class
- Such products should only be made available to the investor at his or her explicit request, and not as a part of the investable universe determined by the asset allocation strategy
- Other solutions

Please explain your answer to question 16:

5000 character(s) maximum

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

First and foremost, we wonder what impact this new approach would have on some categories of products, also in light of product governance, where recent improvements should not be undermined. If a product were not part of the common asset categories (despite being permitted by the target market), it would require efforts from distributors to offer this product. In addition, if a product were derived from the asset allocation strategy but was outside the target market, it is likely that no distributor would offer it (to our knowledge, in Germany, barely any retail distributors offer investment advice outside of the target market; only private banking services offer this).

Structured securities in particular, are a key component of balanced portfolios (in Germany, 8.5 percent of the retail portfolio as indicated in a KPMG study, The future of advice - A comparison of fee-based and commission-based advice from the perspective of retail clients, November 2021, p. 28, footnote 71) as they fulfil specific investor expectations. In many cases, they offer downside protection by way of capital protection or a downside barrier. Some of them (e.g., notes and certificates) are “buy to hold” non-speculative products with a risk indicator of 2 to 5, whilst others (e.g., warrants, turbos) have more hedging or short term purposes.

In any case, the investment intermediary should remain free to offer products beyond the common asset categories as we see risks in limiting the exposure to some types of products in the standardised portfolio allocation. Otherwise the access of investors would be prevented to some categories of products that correspond to their profile.

In the non-advised business there are many well-informed clients with their own market opinion and investment strategy. From the client´s point of view, there is a need to deviate from a standardised asset allocation strategy, both in the short term and in the longer term.

Question 17. Although the form and content of the asset allocation strategy should be prescribed to a certain extent, financial intermediaries will always exercise a degree of discretion when establishing the asset allocation for a given investor. Competition between financial intermediaries in establishing an optimal asset allocation strategy for a given set of client data could yield better quality asset allocation propositions for the client. On the other hand, changing without objective reasons the investment guidance set out by the asset allocation strategy should be avoided in order to ensure that his or her investment goals are attained.

Should a financial intermediary other than the one that drew up the client assessment be able to propose a different asset allocation strategy than the one originally established, where the data required to produce the asset allocation strategy are made available to that financial intermediary?

- ○ Yes, but only when there are objective reasons (see notably (b) and (c) in question 9.1 and 9.2 respectively.)
- ○ No
- ○ Don't know / no opinion / not applicable

Please explain your answer to question 17:

5000 character(s) maximum

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

Financial intermediaries other than the one that drew up the client assessment should be able to offer different asset allocation strategies if deemed appropriate. The previous asset allocation strategy should not be binding in any case. These conditions are necessary to ensure fair and lively competition.
However, we are of the opinion that it is likely that the intermediary would have to carry its own assessment, also possibly including its own customer profile/target portfolio, which is why we see limited interest in making similar data available to the financial intermediary that did not perform the initial client assessment.

Question 17.1 Should the investor be required to give explicit consent for the development of a new asset allocation strategy?

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

Please explain your answer to question 17.1:

5000 character(s) maximum

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

Clients should not be required to give separate consent for the creation of their own asset allocation strategy. It should be sufficient for clients to ask the financial intermediary to provide them with portfolio investment advice, for which a suitable target portfolio will be set up.

Question 18. Would you have any general comments on an enhanced client assessment regime and/or personalised asset allocation strategy?

- (x) Yes
- ( ) No
- ( ) Don’t know / no opinion / not applicable

Please explain your answer to question 18:

5000 character(s) maximum

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

With regards to the response to question 2, we would like to add the following elements: Furthermore, the portfolio-based approach is already possible under the current rules. When giving financial advice, financial intermediaries already offer investors recommendations on portfolio composition based on asset classes, on a voluntary basis. In some cases, this takes the form of portfolio optimisation, which goes beyond a simple target allocation, by calculating risks and expected returns. We do not see how the contemplated personalised asset allocation strategy (PAAS) would generate more added value for retail investors, all the more as the development of a performing (i.e., more sophisticated) portfolio advisory tool would only make sense for portfolios with a certain amount of trades. From our point of view, the right way forward would be to check the regulatory requirements for investment advice regarding its "openness" for the portfolio approach and facilitate implementation, or to create "portfolio advice" as a further option.

Also, very importantly, it would be paradoxical to set up asset allocation strategies that differ from one Member State to another, as it would run counter to the objective of harmonisation and cross-border investment. At the same time, the setting up of a standardised EU framework for such asset allocation strategies would carry the risk of setting under-ambitious minimum requirements at the EU level. Further to not generating added value for retail investors, it may entail lowering the bar for most financial intermediaries

On a more general note, this EC proposal has the merits of offering holistic and forward-looking proposals. Nonetheless, it has proved challenging to contemplate the suggested developments in practice due to their lack of detail and granularity. Therefore, the DDV's responses are based on an assumed understanding, particularly with respect to what is expected from professionals. This EC proposal also raises a certain number of questions that leave room for further reflection.

First of all, it is unclear how the PAAS would interact with the four MiFID services (portfolio management, suitability in advised business, appropriateness in non-advised business, and execution-only). As it is personalised, it would trigger a "personal recommendation", therefore advice in all three other investment services. We have been working under the assumption that this new approach would lead to the disappearance of non-advised services. As far as portfolio management is concerned, the frontier looks like very thin apart from its remuneration and its frequency. In this context, the increasing trend of offering portfolio management should be noted.

As regards the firm that calculates the optimal asset allocation, this opens a wide range of questions about the way the firm remunerates itself, how investments are selected and judged sufficient in terms of risk, thematic, maturity, and other features, how to ensure a level playing field, and fair treatment between those providers included and those excluded in the PAAS.

In a nutshell, this new approach should be weighed against the two following crucial questions: To what extent does this proposal really change the behaviour of the client? Does it improve investment decisions? Trust is indeed essential, but the efficiency of investment decisions is ultimately the criterion investors will look to when deciding whether to invest again.

Therefore, it would certainly be useful to explore further ways forward, such as disentangling investors' risk aversion and experience. It indeed happens that the risk classes limit access to some products while the investor is able to learn by experience how to face the characteristics of the products.

A practice that we think may more widely be developed is the setting up of fictive portfolios that may be tested and would teach investors how different investments evolve over time. This acquisition of knowledge through experience would be more efficient than a plain recommendation that may not necessarily be followed.

Finally, a personalised asset allocation strategy that is voluntarily offered by financial intermediaries may be contemplated. In other words, if the regulator would make the choice to pursue a portfolio approach, it shall remain optional for the firms to offer it to its clients. This would imply that this PAAS is conceived as a complement to the client assessment, and not as a substitute.

Additional information

Should you wish to provide additional information (e.g. a position paper, report) or raise specific points not covered by the questionnaire, you can upload your additional document(s) below. **Please make sure you do not include any personal data in the file you upload if you want to remain anonymous**.

The maximum file size is 1 MB.
You can upload several files.
Only files of the type pdf,txt,doc,docx,odt,rtf are allowed

Useful links

More on this consultation (https://ec.europa.eu/info/publications/finance-consultations-2022-suitability-appropriateness-assessments_en)

Consultation document (https://ec.europa.eu/info/files/2022-suitability-appropriateness-assessments-consultation document_en)

More on retail financial services (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/files/2022-suitability-appropriateness-assessments-specific-privacy-statement_en)

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

Contact

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