



BANKING AND FINANCE | CAPITAL MARKETS

Retail Investor Package presented by the European Commission

The European Commission recently proposed a package of measures to protect retail investors that will have a significant impact on the design and marketing strategies for financial products aimed at retail investors. In particular, they will prohibit inducements for execution services and the reception/transmission of orders and costs charged to UCITS and AIFs that target retail investors. They will also prohibit the use of third parties to promote products (“finfluencers”).

In May this year, the European Commission presented a [package of measures](#) to strengthen the protection of retail (non-professional) investors. The package consists of a proposal for a [directive](#) and a [regulation](#) to amend several existing directives in the financial sector. The directives to be amended are the UCITS Directive, AIFMD, MiFID, Solvency II and DDS. The proposed regulation would amend the rules on PRIIPs and, in particular, the KID.

The European Commission’s main objectives are to:

1. Provide clearer and more relevant information to retail investors
2. Reduce conflicts of interest and misleading commercial information

One important highlight is the proposal to extend the ban on inducements for execution services and reception/transmission of orders. If adopted, this proposal will have a significant impact on the marketing structures of financial products and is likely to require a rethink of current marketing and network arrangements.

PRIIPs Regulation The proposed change to the KID is in line with the European Supervisory Authorities’ [technical opinion](#) of May 2022, which proposed several changes to the format of this document, and it is now due for major changes.

The European Commission presented a package of measures to strengthen the protection of retail to amend several existing directives in the financial sector.

The main changes proposed by the Commission focus, among others, on the prohibition of inducements and costs and performance of UCITS and AIFs.

The Omnibus Directive The main changes proposed by the Commission focus on the following issues:

- **Simplification and harmonisation of information** – The changes will simplify and harmonise the information to be provided to retail investors, in particular for investment services and insurance-based investment products, with clear and concise risk warnings.
- **Misleading marketing** – Strengthening the responsibility of financial intermediaries and insurance distributors for the information provided, including by third parties.
- **Prohibition of inducements** – Proposing a ban on the receipt and payment of inducements from/to third parties in connection with the provision of order taking, order transmission and order execution services. This would be in addition to the existing bans on portfolio management and independent investment advice services. These restrictions will also be extended to the distribution of insurance-based (non-advised) investment products.
- **Investment consultancy** – Strengthening the rules on investment advice, in particular the need to assess an appropriate range of financial products and to advise on the most cost-effective solution from a range of options. It also proposes a form of investment advice subject to simplified suitability requirements.
- **Product governance** – Strengthening product governance rules to require the identification and quantification of all costs and fees and the assessment of their impact on product profitability, as well as the provision of the enhanced suitability assessment report.
- **Costs and performance of UCITS and AIFs** – Specification of the reasonable and acceptable costs that can be charged to UCITS and the introduction of a mechanism to make a **comparison with the relevant cost and performance benchmark** to be published by ESMA, in order for the management company to assess their appropriateness on an annual basis. Where the cost structures of a UCITS or its unit classes deviate from the benchmark, the management company should carry out tests to demonstrate their justification and proportionality.

The package presented by the European Commission is now expected to continue its legislative process at the level of the Council and the European Parliament. ■

