



C/2024/881

6.2.2024

Opinion of the European Economic and Social Committee on (a) 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

(COM(2023) 279 final — 2023/0167 (COD))

and (b) the proposal for a Regulation of the European Parliament and of the Council amending Regulation (EU) No 1286/2014 as regards the modernisation of the key information document

(COM(2023) 278 final — 2023/0166 (COD))

(C/2024/881)

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Referral	(a) European Commission, 24.8.2023 (b) European Parliament, 10.7.2023
Legal basis	(a) Articles 53 (1) and 62 of the Treaty on the Functioning of the European Union (b) Article 114 of the Treaty on the Functioning of the European Union
Section responsible	Single Market, Production and Consumption
Adopted in section	3.10.2023
Adopted at plenary	25.10.2023
Plenary session No	582
Outcome of vote (for/against/abstentions)	208/2/11

I. RECOMMENDATIONS

THE EUROPEAN ECONOMIC AND SOCIAL COMMITTEE

1. **takes note** of the Commission's decision not to propose a full ban on inducements, however, it welcomes the explicit Commission statements that there are potential conflicts of interest in the sales and distribution models for investment products, while standalone financial advice and financial planning services are largely unavailable to most consumers in the EU, and therefore most consumers only have access to advisors who advise on the products that they sell;

2. **notes** that there is already an independent advice gap for consumers who are shying away from investing in financial markets as they would like to use investment products that provide a more stable investment return, whereas many products do not protect against investment losses and consumers can be confused by the very different levels of fees as well as by the tax status of their investment; proposes to extend the review period to three years of effective application to assess the results of market application;

3. **regrets** that the complexity of products is increased by benchmarks and new warnings for 'particularly risky investments' instead of more structural design-related measures; **recommends** that the idea of 'basic products' such as basic bank accounts⁽¹⁾ and compulsory motor vehicle liability insurance⁽²⁾ would apply to mainstream retail financial (investment) products, while allowing improvements, innovation and competition on product features;

(1) Directive 2014/92/EU of the European Parliament and of the Council of 23 July 2014 on the comparability of fees related to payment accounts, payment account switching and access to payment accounts with basic features (OJ L 257, 28.8.2014, p. 214).

(2) Directive 2009/103/EC of the European Parliament and of the Council of 16 September 2009 relating to insurance against civil liability in respect of the use of motor vehicles, and the enforcement of the obligation to insure against such liability (OJ L 263, 7.10.2009, p. 11).

4. **welcomes** the Commission proposal to align ongoing training requirements under IDD ⁽³⁾ to MiFID ⁽⁴⁾ and codify the related European Securities and Markets Authority (ESMA) Guidelines, defining a minimum training requirement, including on sustainability, for sales intermediaries, which should be further expanded in terms of number of hours;

5. **welcomes** the measures to improve disclosure of sustainability objectives; **recommends** ensuring that sustainability indicators and definitions are better aligned between the EU taxonomy for sustainable activities ('Taxonomy'), Sustainable Finance Disclosure Regulation (SFDR) and packaged retail and insurance-based investment products (PRIIPs); **recommends** providing guidance to product manufacturers on how to measure and disclose the actual sustainability impact instead of only green capital expenditure, as this is often how retail consumers interpret sustainability; **recommends** making sustainable products the default option through an opt-out rather than an opt-in without overriding the results of the demands and needs test, where applicable, and not conflicting with the suitability test;

6. **welcomes** the Commission proposal to harmonise disclosure requirements, which should be a first step towards a more horizontal consumer-centric view of all retail financial services legislation; nevertheless **regrets** that disclosure rules for insurance-based products remain subject to a different regime instead of being fully integrated into the PRIIPs framework; **recommends** that co-legislators build on the Commission proposal during the next legislative cycle and align all disclosure rules for insurance-based products to PRIIPs with due respect for their distinctive features instead of retaining a siloed approach for non-packaged insurance-based products under IDD, to simplify comparison between products in different asset classes for consumers but also ensure a level playing field between operators; **recommends** a comprehensive 'competitiveness check' taking into account the consequences of the expected increased participation of retail investors in the financing of the EU real economy companies.

II. EXPLANATORY NOTES / ELABORATION

1. Inducements

1.1. The European Economic and Social Committee (EESC) agrees with the Commission's assessment that there are shortcomings in the way investment products are manufactured and distributed, and that some of these shortcomings are linked to the payment of inducements. The EESC subscribes to the notion that inappropriate advice and conflicts of interest are to be prevented through adequate rules and proper enforcement; at the same time, the EESC is conscious of the disruptive effect of commission bans affecting distributors, especially as many of them are small and medium enterprises (SMEs).

1.2. The EESC notes that the Commission's impact assessment which was subject to a 'positive with recommendations' opinion from the Regulatory Scrutiny Board concluded that the available evidence supports a full ban on inducements, as the Commission's analysis concluded that it is the only policy option that ensures access to bias-free advice; notes that the Commission nevertheless chose to take a two-step approach to avoid 'significant and sudden impact on existing distribution systems', by initially introducing further restrictions on inducements with a legislative review to implement a full ban if 'the detriment to consumers remains'.

1.3. The EESC is concerned about the willingness of individuals with a limited disposable income to pay upfront for advice, particularly as those individuals are most in need of the benefits of protection and diversification while wealthier investors would be more likely to recognise the added value of advice. It would regret any unintended consequences through which the market would be split between sophisticated investors and the vast majority of retail investors who would get only the most basic services as a result of an excessive focus on cost rather than distinctive features of services like capital protection or life and health-related coverage ⁽⁵⁾ (health issues, disability, death, life expectancy, etc.).

⁽³⁾ Directive (EU) 2016/97 of the European Parliament and of the Council of 20 January 2016 on insurance distribution recast (OJ L 26, 2.2.2016, p. 19).

⁽⁴⁾ Directive 2014/65/EU of the European Parliament and of the Council of 15 May 2014 on markets in financial instruments and amending Directive 2002/92/EC and Directive 2011/61/EU (OJ L 173, 12.6.2014, p. 349).

⁽⁵⁾ Biometric risks as defined in Regulation (EU) 2019/1238 of the European Parliament and the Council of 20 June 2019 on a pan-European Personal Pension Product (PEPP) (OJ L 198, 25.7.2019, p. 1).

1.4. The EESC is concerned about the impact of the potential application of value added tax (VAT) in some Member States to the fees charged by financial advisers, as individual investors would have to bear the full price of advice including VAT on top of possible other taxes on financial products, such as insurance premium tax.

1.5. As the Commission's proposal does not entirely prohibit the payment of inducements, strong mitigating measures should be taken to ensure that excessive and unjustified fees fall significantly in the coming years. The EESC has doubts about the appropriateness and effectiveness of the 'half way' regime introduced by the Commission proposal, which would continue to permit inducements in certain cases and forbid them in other cases according to the nature of the investment purchase, giving rise to questions about the cost/benefit ratio of the reform and the level playing field between operators. The EESC recommends better integrating and considering the impact that restrictions on inducements have on specific sectors (such as insurance).

1.6. The EESC points to possible effects of the proposals as they would favour exchange traded funds (ETFs). This would lead to inequalities between non-listed companies and listed companies, as particularly those included in indexes, are more likely than SMEs to be included in such investment instruments. With regard to the digital and green transitions, the EU economy cannot afford to see investment flows leave the EU, with dire consequences for jobs and businesses.

2. Value for Money

2.1. The EESC has diverging views about whether the Value for Money concept, in particular pan-European benchmarks for the diversity of national markets, will ultimately bring prices down and on the burden of proof for a full ban, which remains with the European Commission. To ensure and demonstrate to consumers that they are receiving Value for Money, and to enable lawmakers to make an evidence-based assessment of the review clause that would potentially introduce a full ban on inducements, it is essential that reports on costs and benchmarks be made both to the supervisors as well as easily accessible to the general public, and that reporting to supervisors starts as soon as possible to define a baseline scenario ⁽⁶⁾.

2.2. While the Commission's impact assessment has already stated that only a full ban will definitely remove consumer detriment, the EESC proposes to extend the review timeframe to a sufficiently representative period of three years of effective application, after which the Commission should make a final decision as to whether the consumer detriment has been sufficiently removed or whether further restrictions on inducements and other costs would be in the best interest of consumers.

2.3. To fill the gap until the review, the EESC suggests that alternative advisory networks can to a certain extent help to assist consumers making investment choices, which would help to deliver Value for Money quicker. Consumer associations, provided they are financially and technically well equipped, can also play an important role. In addition to counselling, their work could be effectively amplified by mass media and social media ('Ten key points for buyers of financial products', short simple messages such as 'Don't buy what you don't understand', 'High promises, high risk', 'Don't put all your eggs in one basket', etc.). Strong consumer organisations can help to discipline manufacturers and distributors of financial products. Therefore, the EESC calls on the Commission to come up with measures on how to strengthen the network of such alternative advisory services, taking into account already existing good practices ⁽⁷⁾ in the Member States.

⁽⁶⁾ As recommended by the ESMA: https://www.esma.europa.eu/sites/default/files/2023-08/ESMA22-1669215091-5358_Board_of_Supervisors_July_2023_-_Summary_of_Conclusions.pdf, page 5, point 9.

⁽⁷⁾ <https://www.verbraucherzentrale.de/beratung>, <https://www.verbraucherzentrale.de/ueber-uns>, Testachats invest — Votre partenaire financier indépendant.

3. Basic products

3.1. The EESC welcomes the limited changes to promote cost-efficient and simple products, in line with the advice from the European Insurance and Occupational Pensions Authority (EIOPA) for simpler and more cost-efficient Insurance-Based Investment Products. The EESC recommends that the co-legislators provide more guidance for the ESMA mandate to specify 'the concept of particularly risky financial products', in particular given the experience with heterogeneous national complexity warnings that formed the inspiration for its predecessor — the comprehension alert, defined in PRIIPs.

3.2. Basic products such as those prescribed in the Basic Bank Account Directive and the concept of compulsory motor vehicle liability insurance provide added value that goes beyond ensuring equitable access to comparable financial services products. These products also provide a Value for Money benchmark for other products to do better, by forcing financial market participants to justify the higher cost and fee structure of competing products. Specifically for insurance-based investment products, the EESC recommends that the basic products should take into account the specific needs of life insurance policyholders, including as regards investment security, capital protection and life and health-related cover.

3.3. The EESC agrees with consumer associations that 'being a consumer' is not a full-time job, and that consumers are increasingly faced with choices to be made in the purchase of various services and products that have become available on the markets. However, the impact of information overload and bounded rationality restricts switching behaviour; the EESC warns that this in turn limits the disciplinary effect on market operators and discourages new entrants from entering the market.

3.4. The EESC considers that, like whistleblowers and watchdog consumer organisations, the supervisory authorities in charge of financial markets and services can and should report on market deficiencies. The authorities should stick to their legal mandate as defined under existing prudential and marketing rules and not over-interpret their mandate to define operating elements such as the design and pricing of financial services, which would amount to price setting and interference in competition by supervisory authorities whose primary mandates are the stability of financial institutions and the fair treatment of consumers and beneficiaries of financial services.

4. Financial education and professional training

4.1. Training, including on sustainability, for sales agents and intermediaries (a.k.a. 'financial advisors') is key. Therefore, the EESC welcomes the Commission proposal on training requirements, and recommends extending the minimum training provided on an annual basis. Consumers benefit from properly trained finance workers, who should have sufficient time for training and to understand their client's investment needs, including on sustainability issues, and should not be subject to undue pressure from their employer to fulfil financial products sales targets.

4.2. The EESC would also welcome more concrete aims to identify best practices and assign targets to the competent national bodies, as well as reporting on measures taken both in mainstream channels (families, schools, media, partnerships with civil society organisations) and in a focused way, paying attention to the most vulnerable groups such as those with no stable or reliable source of income and migrants, and people about to make decisions affecting their life savings.

4.3. The EESC emphasises that even the best financial education cannot change the fact that the consumer is in a relationship of information asymmetry with a financial advisor and would need to be able to compare distributors easily, just as when seeking a second opinion on health issues, in the absence of truly independent, unbiased advice.

4.4. To foster quicker progress, the EESC calls on Member States to improve access to and uptake of broader financial planning services using regulated independent financial planners, for instance through tax incentives while paying attention to a level playing field, as good financial planning will make consumers more financially resilient, in particular after retirement.

4.5. The Committee endorses the inclusion of influencers in marketing communication rules and expresses its concern about the role of unreliable influencers in the promotion of crypto-assets and unauthorised products, particularly from outside the European Economic Area.

4.6. The EESC welcomes the possibility for experienced well-informed investors to opt out from the default categorisation as a 'retail' client but warns that this process should be subject to strong safeguards, to avoid consumers being inappropriately encouraged to opt out of EU consumer protection rules that are designed to protect them. Consumers who do actively choose to opt out from the default 'retail' client category should remain subject to safeguards not only to compensate for the lack of knowledge or experience, but also to reflect the unequal negotiating power with an investment services provider or firm. Consumers might over-estimate or exaggerate their investment knowledge or experience to gain access to more complex products or products with a risk profile that is inappropriate for average consumers in a similar situation.

5. Sustainability by default

5.1. The EESC considers that in many Member States there is a strong cultural preference for straightforward products which, together with a perceived complexity of financial services and the search for a balance between security, liquidity and performance, leads to very large amounts of consumer savings stored in savings or ordinary banking accounts. This in turn perpetuates the continued reliance amongst SMEs on bank financing and the dominant role of banks in credit allocation. This societal role of the financial industry justifies policy measures to align credit allocation with other Union policies, such as the Green Deal and the sustainable finance strategies. The EESC considers that SMEs should have access to public and private support in order to have easier access to funding from individual investors with better knowledge of tools available to them.

5.2. The EESC welcomes the measures in the proposed omnibus Directive to improve disclosure of sustainability objectives to complement the SFDR, and encourages the Commission to also accelerate the as the EU Ecolabel for Retail Financial Products project launched in 2018 ⁽⁸⁾; the EESC is however concerned that the current disclosure measures in the SFDR such as Green Asset Ratio are not enough to provide a full detailed image of a company or fund's impact on the externalities covered by the SFDR. The EESC is convinced that retail investors should have access to the relevant and, when consumers require, granular data, for instance as a result of available environmental, social, and governance (ESG) ratings, to make objective investment choices proceeding from the assessment of demands and needs, including on sustainability, and not be subject to information asymmetries which can lead to greenwashing and consumer detriment. The EESC is aware that such additional disclosure should be subject to guidance for product manufacturers so that it is consistent and comparable between products while aligning with the requirement to solicit the sustainability preferences of a client under the MiFID and IDD delegated acts.

5.3. The EESC recommends making sustainable products the default option, including in fintech situations, within the boundaries of the requirements of the demands and needs test, where applicable, subject to an impact assessment and not conflicting with the principle of offering the product most suited to the customer's needs according to adequate advice. As there will not be a full ban on inducements, mitigating measures should be put in place to help consumers autonomously make better investment decisions. Rather than consumers having to ask for a sustainable product, these products should become the norm and a consumer should opt out instead, especially as two-thirds of consumers ⁽⁹⁾ want their money to be invested in a sustainable way. Civil society initiatives such as Fair Finance International and MeinFairMögen ⁽¹⁰⁾ ⁽¹¹⁾ can help consumers identify providers with a relatively sustainable product portfolio. EU funding could help to extend aforementioned (or build new) civil society initiatives beyond payment accounts and banks, to insurance companies and pension funds, as the successful example in the Netherlands shows ⁽¹²⁾.

⁽⁸⁾ <https://susproc.jrc.ec.europa.eu/product-bureau/product-groups/432/home>

⁽⁹⁾ 2^o Investing Initiative (2020), A Large Majority of Retail Clients Want to Invest Sustainably, <https://2degrees-investing.org/resource/retail-clients-sustainable-investment/>

⁽¹⁰⁾ <https://fairfinanceguide.org/>

⁽¹¹⁾ <https://www.meinfairmoegen.de/>

⁽¹²⁾ <https://eerlijkgedwizjer.nl/pensioenwijzer/>

5.4. The EESC invites specific initiatives to move from measuring the theoretical sustainability of a financial product to measuring the actual sustainability impact. The Committee notes that for many retail investors, sustainability is defined in terms of impact, which by definition is limited as most consumers are active in secondary market instruments that do not provide additional investments for the green and digital transitions; the EESC recommends that to better align retail investor preferences for impact, retail investors should be encouraged to participate more actively in primary markets (initial public offerings, IPOs) including through better disclosure of the 'additionality' of their investments.

6. Other considerations

6.1. The Commission's horizontal retail policy of which the current strategy is a major but not the only pillar should address the inconsistencies, gaps and overlaps in financial and reporting regulation, which has for too long been an afterthought in the silo-based approach of EU financial product legislation.

6.2. Therefore, the EESC applauds the Commission for trying to harmonise consumer information and protection by bringing as many retail-oriented investment products under the scope of the PRIIPs Regulation, MiFID and the IDD; but would have preferred a horizontal piece of legislation on disclosures rather than bringing further financial instruments under the disclosure rules of the PRIIPs Regulation, creating a new type of patchwork. The EESC sees this as a potential solution to be pursued in the next legislative cycle. The EESC further welcomes the introduction of a 'best interest' test (Article 24 MiFID and Article 29b IDD) as well as an *ex ante* cost information requirement, which could help to make the sales process more transparent, induce trust, improve comparability, and thus improve the value of financial advice, regardless of whether the advice is provided online or offline.

6.3. The EESC also praises the Commission's decision to consolidate the effort so far and harmonise Key Information Documents across asset classes, although the Committee regrets that the Commission did not see a possibility of integrating insurance-related products into the PRIIPs legislation with due respect to the distinctive features of insurance guarantees, which would have improved comparability within the universe of diverse products on offer. The pragmatic solution to bring new product groups under PRIIPs while retaining separate rules for some insurance-based products instead of proposing a new horizontal Retail Finance Disclosure legislative instrument perpetuates the separate approach, even if it might have very similar results. This could also hamper future additions or amendments to the product disclosure framework as it is not defined in a single legal instrument.

6.4. Specifically in the field of digital disclosures, the EESC supports the Commission's overdue 'digital first' approach but warns that disclosures on a 'physical medium' have been tested and are embedded in legislation to ensure that key information is disclosed to consumers. The EESC warns that behavioural consumer testing of digital disclosures is needed at technical level to ensure that important information is seen and understood by consumers when entering into a contract, and not hidden (deep) inside digital disclosures.

6.5. The EESC expresses its reservations about the impact of the Retail Investment Strategy, as the determining features of the measures it proposes are to be set at a subordinate level that is not directly submitted to the EU legislative process and given the fact that the EESC has no opportunity to formally express the views of organised civil society at that level, after examining the results of sufficient consumer testing.

6.6. The EESC also notes that the impact assessment does not contain a 'competitiveness check' analysing the different policy options, despite an earlier commitment by the Commission President to systematically include such a check. The competitiveness check should take a holistic approach, addressing not only the issue of competitiveness of EU financial market participants, but also the consequences of an increased participation of retail investors in the financing of the EU real economy companies.

III. PROPOSED AMENDMENTS FOR THE DIRECTIVE — COM(2023) 279 final — 2023/0167 (COD) ⁽¹³⁾**Amendment 1**

linked to recommendation 2

Article 1(13) inserting Article 24a into Directive 2014/65/EU (MiFID)

Text proposed by the European Commission	Amendment
<p>[...]</p> <p>8. Three years after the date of entry into force of Directive (EU) [OP Please introduce the number of the amending Directive] and after having consulted ESMA and EIOPA, the Commission shall assess the effects of third-party payments on retail investors, in particular in view of potential conflicts of interest and as regards the availability of independent advice, and shall evaluate the impact of the relevant provisions of Directive (EU) [OP Please introduce the number of the amending Directive] on it. If necessary to prevent consumer detriment, the Commission shall propose legislative amendments to the European Parliament and the Council.</p>	<p>[...]</p> <p>8. Three years after the effective application of Directive (EU) [OP Please introduce the number of the amending Directive] and after having consulted ESMA and EIOPA, the Commission shall assess the effects of third-party payments on retail investors, in particular in view of potential conflicts of interest and as regards the availability of independent advice, and shall evaluate the impact of the relevant provisions of Directive (EU) [OP Please introduce the number of the amending Directive] on it. If necessary to prevent consumer detriment, the Commission shall propose legislative amendments to the European Parliament and the Council.</p>

Reason

To ensure the final Commission assessment is based on sufficient market data and developments, we propose to extend the review by the transposition period, to three years after effective application, instead of the three years after entry into force.

Amendment 2

linked to recommendation 2

Article 2(45) ⁽¹⁴⁾ inserting Article 29a into Directive (EU) 2016/97 (IDD)

Text proposed by the European Commission	Amendment
<p>[...]</p> <p>6. Three years after the date of entry into force of Directive (EU) [OP Please introduce the number of the amending Directive] and after having consulted ESMA and EIOPA, the Commission shall assess the effects of third-party payments on retail investors, in particular in view of potential conflicts of interest and as regards the availability of independent advice, and shall evaluate the impact of the relevant provisions of Directive (EU) [OP Please introduce the number of the amending Directive] on retail investors. If necessary to prevent consumer detriment, the Commission shall propose legislative amendments to the European Parliament and the Council.</p>	<p>[...]</p> <p>6. Three years after the effective application of Directive (EU) [OP Please introduce the number of the amending Directive] and after having consulted ESMA and EIOPA, the Commission shall assess the effects of third-party payments on retail investors, in particular in view of potential conflicts of interest and as regards the availability of independent advice, and shall evaluate the impact of the relevant provisions of Directive (EU) [OP Please introduce the number of the amending Directive] on retail investors. If necessary to prevent consumer detriment, the Commission shall propose legislative amendments to the European Parliament and the Council.</p>

⁽¹³⁾ 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 (COM/2023/279 final).

⁽¹⁴⁾ The Commission proposal contains a numbering error in Article 2. After Article 1(25) and 2(1), the next paragraph is numbered 2 (26) whereas this should have been 2(2). This amendment follows the Commission's numbering for the sake of clarity.

Reason

To ensure the final Commission assessment is based on sufficient market data and developments, we propose to extend the review by the transposition period, three years after effective application, instead of three years after entry into force.

Amendment 3

linked to recommendation 3

Recital 36a

Text proposed by the European Commission	Amendment
	<p><i>(36a)(new) When defining how to identify ‘particularly risky products’, ESMA and EIOPA should integrate the indicators previously used to define whether the comprehension alert defined in Regulation (EU) No 1286/2014 should apply, including whether: (i) the product invests in underlying assets in which retail investors do not commonly invest; (ii) the product uses a number of different mechanisms to calculate the final return of the investment, creating a greater risk of misunderstanding on the part of the retail investor; and (iii) the investment’s pay-off takes advantage of retail investors’ behavioural biases, such as a teaser rate followed by a much higher floating conditional rate, or an iterative formula.</i></p>

Reason

The current ‘comprehension alert’ is replaced by a risk warning that will apply for ‘particularly risky products’, the definition of which is entirely left to delegated legislation. This means that co-legislators and the EESC have no influence over its definition. As the current (PRIIPs) Regulation provides significant guidance on when the ‘comprehension alert’ applies in recital 18, we propose to retain this language in the new Regulation.

Amendment 4

linked to recommendation 4

Article 1(13) inserting Article 24d into Directive 2014/65/EU (MiFID)

Text proposed by the European Commission	Amendment
<p>2. For the purpose of paragraph 1, Member States shall require investment firms to ensure and demonstrate to competent authorities on request that natural persons giving investment advice to clients on behalf of the investment firm possess and maintain at least the knowledge and competence set out in Annex V and undertake at least 15 hours of professional training and development per year. Compliance with the criteria set out in Annex V as well as the yearly successful completion of the continuous professional training and development shall be proven by a certificate.</p>	<p>2. For the purpose of paragraph 1, Member States shall require investment firms to ensure and demonstrate to competent authorities on request that natural persons giving investment advice to clients on behalf of the investment firm possess and maintain at least the knowledge and competence set out in Annex V and undertake at least 35 hours of professional training and development per year. Compliance with the criteria set out in Annex V as well as the yearly successful completion of the continuous professional training and development shall be proven by a certificate.</p>

Reason

To provide value for money, retail investors choosing to seek financial advice should benefit from the expertise of properly trained finance workers. The current training requirement is very light compared to other professions, and to the typical training rights of workers. Also, in view of new competences to be acquired such as those related to sustainable finance, we propose to increase the training requirement.

Amendment 5

linked to recommendation 4

Article 2(29)(b)(i) amending Article 10 of Directive (EU) 2016/97 (IDD)

Text proposed by the European Commission	Amendment
<p>(i) the first, second and third subparagraphs are replaced by the following:</p> <p>[...]</p> <p>For the purpose of the first subparagraph, home Member States shall have in place and publish mechanisms to control effectively and assess the knowledge and competence of insurance and reinsurance intermediaries, employees of insurance and reinsurance undertakings and employees of insurance and reinsurance intermediaries, as set out in Annex I, based on at least 15 hours of professional training or development per year, taking into account the nature of the products sold, the type of distributor, the role they perform, and the activity carried out within the insurance or reinsurance distributor.</p> <p>Home Member States shall require that compliance with the criteria set out in Annex I, as well as the yearly successful completion of the continuous professional training and development is proven by a certificate.</p>	<p>(i) the first, second and third subparagraphs are replaced by the following:</p> <p>[...]</p> <p>For the purpose of the first subparagraph, home Member States shall have in place and publish mechanisms to control effectively and assess the knowledge and competence of insurance and reinsurance intermediaries, employees of insurance and reinsurance undertakings and employees of insurance and reinsurance intermediaries, as set out in Annex I, based on at least 35 hours of professional training or development per year, taking into account the nature of the products sold, the type of distributor, the role they perform, and the activity carried out within the insurance or reinsurance distributor.</p> <p>Home Member States shall require that compliance with the criteria set out in Annex I, as well as the yearly successful completion of the continuous professional training and development is proven by a certificate.</p>

Reason

To provide value for money, retail investors choosing to seek financial advice should benefit from the expertise of properly trained finance workers. The current training requirement is very light compared to other professions, and to the typical training rights of workers. Also, in view of new competences to be acquired such as those related to sustainable finance, we propose to increase the training requirement.

Amendment 6

linked to recommendation 5

Article 1(14) amending Article 25 of Directive 2014/65/EU (MiFID)

Text proposed by the European Commission	Amendment
	<p><i>3a. When providing investment advice, the products proposed by the investment firm shall include at least one product that has sustainable investment as its objective as defined in Article 9 of Regulation (EU) 2019/2088, unless the client has explicitly indicated that they do not have any sustainability preferences as defined in Article 2(7) of Delegated Regulation (EU) 2017/565.</i></p>

Reason

The changes made by the Commission to the MiFID II Delegated Directive on sustainability apply as of 22 November 2022, but only apply to product governance obligations. To ensure these changes are effective, they need to be matched by a more robust integration of sustainability in the sales process governed by MiFID. Consumers are often not aware of the increasing range of sustainable products available on the market and should be proposed sustainable products as a 'default option', rather than having to actively ask for them.

Amendment 7

linked to recommendation 6

Article 2(39)⁽¹⁵⁾ amending Article 23 of Directive (EU) 2016/97 (IDD)

Text proposed by the European Commission	Amendment
<p>4. [...]</p>	<p>4. [...] <i>(d) the necessary safeguards to ensure that digital disclosures are not abused to hide the most important information for consumers which should appear in the first layer;</i></p>

⁽¹⁵⁾ The Commission proposal contains a numbering error in Article 2. After Article 1(25) and 2(1), the next paragraph is numbered 2 (26) whereas this should have been 2(2). This amendment follows the Commission's numbering for the sake of clarity.

Reason

This aligns the safeguards on digital disclosures and layering for the products that remain under IDD, to the new provisions under the revised PRIIPs Regulation.

IV. PROPOSED AMENDMENTS FOR THE REGULATION — COM(2023) 278 final — 2023/0166 (COD) ⁽¹⁶⁾**Amendment 1**

linked to recommendation 5

Article 1(5)(d)(ga) amending Regulation (EU) 1286/2014 (MiFIR)

Text proposed by the European Commission	Amendment
[...]	[...] (iii)(new) the data sources on which the sustainability assessment is based, as well as a link to the website of the manufacturer where the underlying data can be accessed;

Reason

As recent investigative journalism reports on ‘unsustainable’ investments in financial products sold as ‘dark-green’ Article 9 SFDR products show, there is a major information asymmetry between financial product manufacturers and distributors who classify and market such products, and the consumer purchasing them, as regards the sustainability features of the product. To prevent mis-selling, consumers should be able to check why a product was classified as Article 8 or 9 SFDR. We therefore propose to amend the disclosure requirements that cover such products.

Brussels, 25 October 2023.

The President
of the European Economic and Social Committee
Oliver RÖPKE

⁽¹⁶⁾ Proposal for a Regulation of the European Parliament and of the Council amending Regulation (EU) No 1286/2014 as regards the modernisation of the key information document (COM/2023/278 final).