

EU-regulation: Retail Investment Strategy

Topic	Article (where relevant)	Proposal	Justification
Value for money (Vfm)	RIS proposal, article 16 MiFID II	<p>Remove the Vfm-proposal from RIS (option 1)</p> <p>Alternatively</p> <p>Make necessary amendments in order to make the Vfm-regime less complex and administratively burdensome (option 2). These amendments should, as a minimum, remove all references to public benchmarks, allow investment firms flexibility as regards the vfm-assessment and include requirements as regards internal governance. If kept, there is a need to clarify how the vfm-rules interacts with other investor protection rules.</p>	<p>Ensuring that financial products provide customers with value for money is central to RIS (the Omnibus directive will bring changes to, among other, MiFID II). However, the idea that the producer should compare and evaluate their products and their costs in relation to benchmarks and other products is believed to have a controlling effect on pricing. It will likely have a dampening effect and lead to a market with increasingly passive products at the expense of active ones. If the Commission wants to ensure smooth investment flows throughout the EU, with increased financial competitiveness, a renewed analysis is needed. In that analysis, it is important not to unnecessarily create problems for existing, well-functioning products in the member states.</p>
Best interest test	RIS proposal, article 24 MiFID II	Remove the proposed client best interest test.	Important to view the client best interest test in conjunction with the inducements rules, since the original proposal was to replace existing

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			<p>inducements requirements with the client best interest test. Where inducements requirements are kept and/or updated (ref. Council's proposals) the client best interest test creates a double set of requirements which goes directly against the aim of achieving simplification.</p> <p>Furthermore, there is already an overarching principle for investment firms to act in their clients' best interest and a requirement included in the suitability assessment and the proposed VfM regime includes elements of acting in the clients best interest when manufacturing new products as well as when selecting the product offering as a distributor.</p>
Inducements – scope	RIS proposal, article 24 MiFID II	<p>Clarify that fees from one client for an investment service is not considered as an inducement in relation to another client (option 1)</p> <p>Alternatively</p> <p>Make a clear exemption from the inducement rules for underwriting and placing fees (option 2)</p>	<p>Without such clarification there is a risk that investment firms which provide corporate finance services fall under the ban under inducement and cannot accept and retain payments for services provided to issuer clients where they are also providing portfolio management services to other clients. It is also unclear how the quality enhancement rules/inducement test apply for such payments.</p>

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		The general rules on conflict of interest but not the inducement rules should apply to payments from clients.	
Inducements – requirements	RIS proposal, article 24 MiFID II	The requirements that apply in order for investment firms to be able to accept and retain inducements need to be clarified. This is the case regardless if the existing quality enhancement test is kept as it is today and/or if the co-legislators proceed with the inducement test as proposed by council.	The existing rules are complex which create legal uncertainty to the detriment of producers and distributors as well as supervisors.
Inducements – goldplating	RIS proposal, article 24 MiFID II	Member states should not be allowed to introduce a full ban or additional requirements without justification.	Goldplating creates barriers for the single market
Suitability	RIS proposal, article 25 MiFID II	Remove the proposed requirement that a product would not be suitable if it includes features not necessary for achieving the client's objectives.	<p>The level of a product's charges in relation to the product's features will be assessed in the product governance regime and specifically under VfM (creating duplicate requirements to no benefit of clients, firms or supervisory authorities).</p> <p>It would limit clients' choices since a more expensive product could be perfectly legitimate due to performance prospects, better guarantees, particular ESG characteristics or opportunities to</p>

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			create a better diversification of a client's portfolio.
Appropriateness assessment	RIS proposal, article 25(3) MiFID II	Remove inclusion of risk tolerance and client's ability to bear loss in the appropriateness assessment.	<p>Including risk tolerance and ability to bear loss in execution services would blur the distinction between the appropriateness and suitability assessments, i.e. between order execution services and investment advice.</p> <p>Clients will be unduly limited in their choice of financial instruments and encounter more cumbersome and long execution services.</p> <p>May lead to distributors denying services and limiting product access with the end result of reducing market opportunities and investor participation in the market.</p>
Costs & Charges Disclosures – simplification	RIS proposal, article 24 MiFID II	Simplify existing MiFID II cost disclosure requirements rather than introducing additional requirements	<p>Already the existing MiFID II cost disclosure requirements lead to a lot of detailed information retail clients are faced with. Adding more information directly contradicts the ambition to simplify the regulatory environment and discourage retail investors from investing rather than attracting them. The main examples here are the proposals on introducing cumulative effect of inducements on return,</p>



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			including net annual performance for every single instrument included in the client's portfolio and including ex-post information since start of contract term.
Periodic Reporting – online system	RIS proposal, article 24b (5) articles 60 and 62 delegated regulation 2017/565	The requirement to provide annual report through an “online system” should be simplified by removing <i>“which qualifies as a durable medium, where up-to-date statements of client's financial instruments or funds can be easily accessed by the client and the firm has evidence that the client has accessed this statement at least once during the relevant quarter.”</i>	The requirement of having to evidence that clients have accessed the annual reports is a hurdle preventing firms from making use of this type of digital reporting. Audit trail for clients' movements in digital channels is typically not kept for each dedicated page or space in the online environment and not connected to opening of documents or engaging with specific service features in the online environment. Furthermore, the evidence requirement as such presents a higher standard than what applies if a report is simply sent by traditional mail, where the firm has fulfilled its part when the letter has been submitted to the postal service and no further evidence is required on the client side. To make it easier for investment firms to provide information to clients online is also justified considering EU's Digitalization Agenda.

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Cost & Charges Disclosures – professional clients and eligible counterparties	RIS proposal, article 24 MiFID II and article 50 of the delegated regulation 2017/565	<p>Make exemptions for professional clients under “Quick Fix” permanent.</p> <p>In addition, professional clients and eligible counterparties should be exempt from the cost & charges rules also when receiving investment advice and portfolio managements (option 1). Alternatively, they should be able to opt in (or opt out) of such rules (option 2).</p>	<p>Exemptions given as part of MiFID quick fix related to cost disclosures towards professional clients and eligible counterparties, should be kept going forward. Requirements should not be reintroduced for professional clients as part of RIS.</p> <p>Professional clients and eligible counterparties have little use of this information and are able to take care of their own interests.</p>