EUROPEAN COMMISSION
DIRECTORATE-GENERAL FOR FINANCIAL STABILITY, FINANCIAL SERVICES AND CAPITAL MARKETS UNION

Financial markets
Securities markets

CONSULTATION DOCUMENT

TARGETED CONSULTATION ON OPTIONS TO ENHANCE THE SUITABILITY AND APPROPRIATENESS ASSESSMENTS

Disclaimer

This document is a working document of the Commission services for consultation and does not prejudge the final decision that the Commission may take.

The views reflected on this consultation paper provide an indication on the approach the Commission services may take but do not constitute a final policy position or a formal proposal by the European Commission.

The responses to this consultation paper will provide important guidance to the Commission when preparing, if considered appropriate, a formal Commission proposal.

You are invited to reply **by 21 March 2022** at the latest to the **online questionnaire** available on the following webpage:
https://ec.europa.eu/info/publications/finance-consultations-2022-suitability-appropriateness-assessments_en

Please note that in order to ensure a fair and transparent consultation process **only responses received through the online questionnaire will be taken into account and included in the report summarising the responses**.

This consultation follows the normal rules of the European Commission for public consultations. Responses will be published in accordance with the privacy options respondents will have opted for in the online questionnaire.

Responses authorised for publication will be published on the following webpage: https://ec.europa.eu/info/publications/finance-consultations-2022-suitability-appropriateness-assessments_en

Any question on this consultation or issue encountered with the online questionnaire can be raised via email at fisma-suitability-assessments@ec.europa.eu.

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[1], 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

[1] Consultation on retail investment strategy for Europe: https://ec.europa.eu/info/publications/finance-consultations-2021-retail-investment-strategy_en

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".

CONSULTATION QUESTIONS

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
Please provide a detailed answer.

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

Question 2.1 If yes, which of the following benefits and opportunities might a new retail client assessment (enhanced with a personalised asset allocation strategy) and its transferability bring to retail investors and financial intermediaries? (please select as many answers as you like)

☐ Increasing participation of retail investors in the capital markets

☐ Preventing or limiting mis-selling and ill-advised investments

☐ Address potential "gamification" of the retail investment process

☐ Useful supporting measure for retail investors also when investing without advice

☐ Favouring more competition between financial advisers by facilitating customer switching and standardising performance metrics

☐ Reducing burdens and costs linked to the investors' onboarding (by avoiding duplication) for both retail investors and financial intermediaries

☐ Allowing different financial intermediaries to have a more comprehensive view of the investments held by a retail investor and to offer a more holistic and aligned investment strategy.

☐ Others benefits and opportunities

Please explain your answers.

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, Don't know
Please explain your answer.

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, No, Don't know
Please explain your answer.

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

- 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 answers (in particular if you ticked the box for "other").

Question 6. What should be the key components of a standardised personal investment plan? (please select as many answers as you like)

☐ 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

☐ **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

☐ **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.

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.

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
Please explain your answer.

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.

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

☐ d. other

Please explain your answers.

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.

One off costs:

Ongoing costs:

Please explain your answer and provide a breakdown of the most important cost components.

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?

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.

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
Please explain your answer. If possible, please provide estimates.

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

Question 13.1 If yes, please specify what profiles classification you would recommend and provide explanations?

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)

☐ Risk

☐ Return

☐ Paired correlation with other asset classes

☐ Additional criteria

Please explain your answer and provide details on the additional criteria if any.

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?

Yes, No, Don't know
Please explain your answer.

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?

- 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, in particular where you express support for 'other solutions'.

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
Please explain your answer.

Question 17.1 If yes, should the investor be required to give explicit consent for the development of a new asset allocation strategy?

Yes, No, Don't know
Please explain your answer.

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

Yes, No, Don't know
Please explain your answer.